# Law & Order SVU Aff

#### Trigger warning: some cards have explicit language of sexual assault

#### Qualified Immunity extends beyond the court room and legal proceedings. It operates silently in investigations, turns its head to damages in the prison cell, and, ultimately, engenders spaces in which the prison industrial complex can take hold. QI cannot be isolated within momentary legal questioning. Instead, it requires interrogation of subjects’ life in greater methods of control in and out of the criminal justice system: from traffic stop, to court room, to prison cell.

### Part 1 is the arrest:

#### Sandra Bland wasn’t the first or only. When calling to report arrest, gender violence encapsulates the accountability of police officers. Marlaetra Montanez “called the police to report her teenage daughter missing and hours later she was being compelled by the responding officer to have sex with him in her living room.”

#### The choice in response is also gendered; Police fail to intervene when called on the scene of intimate partner violence; leaving survivors powerless and without legal protection

Harper ‘90 (Laura S. is a writer for the Cornell Law Review specializing in domestic violence) “Battered Women Suing Police for Failure to Intervene: Viable Legal Avenues After Deshaney v. Winnibago County Department of Social Services” Cornell Law Review Article 4 Volume 75 Issue 6 September 1990 <http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=3473&context=clr> KAE

In the domestic violence context, the viability of a battered woman's section 1983 claim turns on the second element-proving the deprivation of a constitutional right. Although no constitutional right to police protection exists on a general basis, courts have recognized two exceptions.' 6 First, under the due process clause, the state owes a duty to protect an individual's liberty interests when a special relationship exists between that individual and state agents.1 7 Second, under the equal protection clause, the state may not discriminate in providing protection to the public.18 Battered women have used both exceptions, contending that police, through inaction, have violated their rights to due process and equal protection of the laws. 19 The United States Supreme Court has stressed repeatedly, however, that the scope of section 1983 is not so broad as to convert "every tort committed by a state actor into a constitutional violation."'20 A. Due Process Violations in the Domestic Violence Context The due process clause of the fourteenth amendment provides that "[n]o State shall ... deprive any person of life, liberty, or property without due process of law."' 21 Battered women's substantive due process claims under section 1983 typically allege a liberty deprivation resulting from the failure of police to intervene in domestic assault situations. 22 Courts have acknowledged that an individual's right to liberty may include the "right to personal security" 23 and the "right to be free from physical harm and restraint. '24 In this context, the special relationship doctrine, derived from tort law,25 may trigger the state's affirmative constitutional duty, under the due process clause, to provide protective services. 26 Courts have been inconsistent in their consideration of the factors that comprise special relationships. 27 Specific factors which courts frequently, but not uniformly, consider include: (1) whether the state created or assumed a custodial relationship toward the plaintiff, (2) whether the state was aware of a specific risk of harm to the plaintiff; (3) whether the state affirmatively placed the plaintiff in a position of danger; or (4)whether the state affirmatively committed itself to the protection of the plaintiff.28 By emphasizing the second and fourth factors, a battered woman has argued successfully that a special relationship existed between her and the state by virtue of a court order of protection from abuse and police notification of domestic violence. 29 The special relationship doctrine, however, has not always been helpful to battered women plaintiffs.30 B. Equal Protection Violations in the Domestic Violence Context The equal protection clause of the fourteenth amendment requires that "[n]o State shall ... deny to any person within its jurisdiction the equal protection of the laws." 3' Battered women bringing equal protection claims under section 1983 usually argue that police differentiate between domestic violence calls and nondomestic violence calls. This classification, they contend, results in less protection to domestic violence victims than to nondomestic victims. 32 Therefore, because women typically are the victims in domestic assaults, a police policy using this classification discriminates against women.33 Equal protection analysis of challenged classifications based on gender discrimination involves two legal standards, depending upon the type of classification involved. 34 First, if a classification represents an explicit, purposefully gender-based discriminatory policy, this policy must withstand an intermediate level of scrutiny to pass constitutional muster.3 5 Specifically, the government must show that the challenged policy is substantially related3 6 to an important government objective or interest.37 Second, a policy may contain a classification which is gender-neutral on its face but, as applied and administered, discriminates against women.38 The gender-neutral standard requires that a plaintiff prove a discriminatory intent or purpose for such a policy in order to invoke a court's intermediate scrutiny.39 The Supreme Court, however, has stressed repeatedly that a plaintiff cannot rely solely upon a showing of disproportionate impact to prove discriminatory intent.40 Even so, the Court has not rejected disproportionate impact as irrelevant to finding a discriminatory purpose.41 In this connection, the Court has found that certain circumstantial evidence may support the inference of discriminatory purpose: a policy's historical background,42 extreme disparate impact,43 or the extreme discriminatory effect of administering a facially neutral policy upon a particular class of individuals. 44 Courts typically invoke a gender-neutral standard to police classifications distinguishing between "domestic violence" and "nondomestic violence" situations when battered women claim that such classifications discriminate against women victims. 45 Thus, in order for a battered woman to establish an actionable section 1983 claim based on an equal protection violation, she must proffer the requisite showing of discriminatory intent or purpose.46

#### Discrimination increases harm and creates a culture of indifference towards IPV

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Because courts will apply a heightened level of scrutiny 8 9 to classifications based on gender, battered women's chances for recovery are enhanced if they can establish that a police policy classification discriminates against women. Gender-neutral standards' 90 requiring evidence of discriminatory intent will pose unjustly difficult hurdles for plaintiffs if courts remain unwilling to accept evidence of extreme disparate impact on women as sufficient evidence of discriminatory intent. Despite studies showing that women predominate the class of domestic violence victims, 191 and that police are well aware of this,192 courts may find insufficient evidence of discriminatory intent if other police justifications adequately explain challenged policy classifications. For example, police may argue that domestic violence victims typically drop charges or request that their batterers not be arrested.1 93 Consequently, to- improve efficient police resource allocation, police may adopt a policy differentiating between domestic and nondomestic assaults. 94 Courts, police departments, and municipalities should not disregard the statistical fact' 9 5 that affording less protection to domestic violence victims means that women will be adversely affected. Many municipalities have acknowledged this and are revising their policies accordingly.' 9 6 Since it is unlikely that courts will judicially notice explicit gender-based classifications given the neutral labels of domestic violence/nondomestic violence, battered women should be prepared to present evidence of disparate impact and treatment. Courts and juries could infer discriminatory intent against women from police statistics showing that women comprised the majority of domestic assaults, and that domestic assault arrest rates were consistently lower than other assault arrest rates. 97 Evidence of police training methods that discourage arrests in domestic violence cases or rationalize different treatment for domestic violence victims may support statistical discrepancies between domestic and nondomestic categories. 19 8 These forms of evidence might also be proffered to support a Stoneking (policy or custom) or Canton (failure to train) theory of liability.199 Battered women could argue that municipal policymakers' deliberate indifference can be inferred from statistically evident disproportionate harm to battered women as a result of persistent unequal protection by police policies or inadequate police training.

### Part 2 is behind the bars:

#### Now in the cell there is continued institutionalized violence.

#### Sexual assault is rampant in US prisons – women are abused with impunity and reports of misconduct are ignored. These actions create a pathology of victimization and violent power dynamics

ACLU 16 American Civil Liberties Union, Not for profit, non-partisan organization dedicated to protecting civil liberties “Words From Prison: Sexual Abuse in Prison,” 2016 KAE bracketed for grammar

In many women's prisons, male corrections officers are allowed to watch the women when they are dressing, showering, or using the toilet, and some guards regularly harass women prisoners. Women also report groping and other sexual abuse by male staff during pat frisks and searches. For victims of prior abuse, this environment further exacerbates their trauma. In Dorothy's prison housing unit, one particular correctional officer began singling her out and asking for sexual favors in exchange for providing her with food or her normal share of personal hygiene products. At first, Dorothy thought he was not serious, but then his threats became real; he started withholding about half of her meals, as well as soap and toilet paper. The imbalance of power between prisoners and guards leads to the use of both direct physical force and indirect force based on the prisoners' total dependence on guards for basic necessities and the guards' ability to withhold privileges. Studies on abuse of women in prison reveal that male correctional officers sexually abuse female prisoners with almost total impunity. [One woman] did not know whom to tell or what to do because the guard was senior among the prison staff. Other women who had reported sexual harassment or abuse against other officers in the past had been ignored by prison officials, or worse yet, had been labeled troublemakers. Dorothy knew that such a label could affect her good standing while in prison and also her chances at parole. She had heard of guards [limit] women's visitation rights, [handed] out rules-infraction tickets, or even [put] women who spoke out into solitary confinement. So, Dorothy told no one and did nothing, hoping that the guard would eventually leave her alone. Unfortunately, that's not what happened. In 1999, the federal government concluded that abuse by correctional staff occurs in women's prisons, but that the full extent of the problem is unknown because many women prisoners are reluctant to report staff sexual misconduct. One day, the guard found Dorothy alone in the laundry room. He locked the door from the inside, and although Dorothy struggled, he raped her. The guard told her that if she complained, no one would believe her. The sexual assault brought up all of Dorothy's experiences of violence at the hands of her husband. The feelings of despair, worthlessness, and total helplessness washed over her again. Now, more than ever, Dorothy could see no escape. The United Nations Special Rapporteur on Violence Against Women found that sexual misconduct by male corrections officers against women prisoners is widespread in United States prisons and constitutes a human rights violation.

#### Established legal standards aren’t sufficient to protect prisoners

Bader 12 Women Prisoners Endure Rampant Sexual Violence; Current Laws Not Sufficient Friday, 21 December 2012 00:00 By [Eleanor J. Bader](http://www.truth-out.org/author/itemlist/user/44970) <http://www.truth-out.org/news/item/13280-women-prisoners-endure-rampant-sexual-violence-current-laws-not-sufficient> KAE bracketed for grammar

Then there's the issue of corroboration and whether prison officials will believe incarcerated complainants or side with their own colleagues. Lewis and Vela are dubious that coworkers will turn one another in. "It is clear to us that staff interprets their obligation to report as being triggered only when they observed actual sexual touching," their letter to the commission continues. "They did not believe that seeing an officer give a particular prisoner cigarettes or other gifts, or whispering to a particular prisoner in close proximity for long periods about personal matters, was enough to trigger the duty [to report what they saw]. [but] the fact is that sexual contact almost always happens in private: If a duty to report is to mean anything, then indicia of an improper relationship must also be reported." Equally glaring, they add, is that PREA does nothing about nonsexual abuse. A.L. was an inmate at New York City's Bayview Correctional Facility - [a small, low-security women's prison that has the highest percentage of inmate abuse complaints in the country](http://truth-out.org/metro.us/newyork/local/article.851097%E2%80%94staff-sexual-abuse-rampant-at-manhattan-prison-may2011). Incarcerated from 2006 to 2009, A.L. says that she was routinely ridiculed by staff. "I am a lesbian," she says, "and did not dress as feminine as the guards liked. Some of the officers would harass me real hard, make comments about my loose shirt and pants. They singled me out for torment and were always pushing up on me and the other girls." Worse, she continues, they turned their backs when she was jumped by other prisoners. "I was sitting on the toilet with my pants around my ankles when two inmates kicked down the door. I was not hurt so badly that I needed hospitalization, but I got 15 days for fighting even though there were two of them and one of me." Years later, she confides, she still cannot use public restrooms or close a bathroom door. Whitehorn also reports living with residual injury. "The fact that guards would grab [women] in inappropriate ways - one would jam his hand into [their] crotch and squeeze [their] breasts extremely hard – [which] has been damaging," she says. Then there's the random drug testing. "You regularly have to give urine samples, and they can ask for them at any time of the day or night. They literally watch you pee," said Whitehorn. She recalls her cellmate in California's Federal Correctional Institution in Dublin being called out for testing and returning to the cell visibly upset. Whitehorn later ascertained that the guards had made her strip and then lift one leg up to pee. "They told her that they wanted to make sure she did not have a vial of clean urine taped to her thigh that she could pour into the toilet," she says. Whitehorn was so outraged that she protested to the unit manager. The inmates later filed a formal complaint, and in the process, learned that dozens of other women in Dublin had been subjected to the same treatment. "They were humiliated," she recalls, "by both what had happened and because they had not protested out of fear of going to the hole or losing the few privileges they had." "This is the issue," said Whitehorn. "You can have a relatively short two-year sentence and still be hurt by it. When I was released and began working, if my boss gave me extra work, no matter how much, I'd just do it and would not speak up or complain." "I'd panic on the street if my girlfriend took my hand," she said. "I'd scream, 'We can't do that!' I had hyper-anxious responses to police sirens and wore clothes that were many sizes too big because I wanted to be covered up and protected." As for PREA, while it may make a dent in curtailing the most egregious sexual abuse, advocates agree that a great deal more needs to be done to address the many issues facing women prisoners. "Power abuse is the root of the problem," Whitehorn concludes, "and until incarcerated women have a way to defend their bodily integrity, prisons will continue to mimic - and exaggerate - the male supremacy of US society."

#### Dehumanized and relegated to a position of social inferiority… the prisoner becomes voiceless as a result – the discussion in the 1AC is key to combating myths about prison life, which makes reform possible.

Jacobs 04. Andrea. University of Washington, B.A., cum laude, 2001; J.D., California Western School of Law. “Prison Power Corrupts Absolutely: Exploring the Phenomenon of Prison Guard Brutality and the Need to Develop a System of Accountability.” California Western Law Review. KAE

Although quite often unknown to the American public, inmate abuse is a common problem in prisons and jails across the country. Because it is difficult to penetrate prison walls to produce evidence of abusive practices, and it is rare for a prison guard to defy his fellow officers and speak out against wrongful conduct,' society is generally unaware of how American inmates are handled. An informed public, however, would be disappointed to know that when inmates are mistreated, the possibility of redress is limited and guards are often not held accountable. Whereas inmates in the past could file civil actions in federal district court to seek remedy, a United States Supreme Court decision in 2002 interpreted the Prison Litigation Reform Act (PLRA)8 as requiring an inmate alleging abusive treatment to exhaust his administrative remedies in the prison facility before bringing an action in district court.9 ¶ Forcing inmates to file administrative grievances for assault and abuse by corrections officers brings a new set of litigation to the court system. In the aftermath of Porterv. Nussle,0' inmates are filing com- plaints that their prison grievances are not being properly handled, and even worse, are being ignored." This comment will address the real- ity of inmate abuse, how prison culture can transform those with power, and the problem Portercreated in giving the corrections sys- tem complete discretion to assess inmates' claims of excessive force against the institution's own employees. Part II of this comment sets out the factual background and rationale of the Porterdecision. Part III critiques the validation behind passage of the PLRA and discusses incidents of inmate brutality. Finally, Part IV compares the inadequate aspects of grievance procedures in various state prisons and jails to a model grievance process, the Administrative Remedy Program of the Federal Bureau of Prisons. 2 This comment concludes with the suggestion of a program that should be adopted and well-funded in each state to fairly handle inmate grievances and take discretion away from prison guards. ¶ To deny … the difference between punching a prisoner in the face and serving him unappetizing food is to ignore the 'concepts of dignity, civilized standards, humanity, and decency' that animate the ¶ Eighth Amendment."13 In Porter the United States Supreme Court had an opportunity to ¶ provide inmates with a voice to protest acts of violence against them before a federal judge. Instead, the Court took a harsh route and denied an exception to the exhaustion of remedies requirement in the PLRA for claims of excessive force, finding no difference between egregious prisoner abuse and generic prison condition complaints.14 Consequently, inmates have been left to struggle within the corrections system. ¶ A. Factual and Procedural Background ¶ On June 15, 1996, corrections officers at the Cheshire Correctional Institution in Connecticut subjected Ronald Nussle to an unprovoked and unjustified beating.' 5 The assault was so severe that Nussle "lost control of his bowels, and ... was warned by the guards that he would be killed if he reported the beating."' 16 ¶ On June 10, 1999, Nussle filed a complaint under 42 U.S.C. § 198317 in the United States District Court for the District of Connecticut stating that corrections officers violated his Eighth Amendment right to be free from cruel and unusual punishment. 8 The District ¶ Court dismissed the action due to Nussle's failure to exhaust the prison's administrative remedies 9 under 42 U.S.C. § 1997e(a).2° ¶ Nussle appealed to the United States Court of Appeals for the Second Circuit, which reversed the district court's ruling and held that exhaustion of administrative remedies was not required for prisoner claims of assault or excessive force brought under § 1983.21 The court decided that excessive force was not a "prison condition," for which the grievance process must be exhausted through administrative reme- dies." The Second Circuit found the term "prison conditions" in the language of § 1997e(a) ambiguous2 3 because the PLRA did not clearly define the parameters of what encompassed "prison conditions."24 The court of appeals reasoned that because claims of excessive force were not the type of frivolous suits that the PLRA sought to deter, but instead were "actual violations of prisoners' rights,"25 exhaustion of administrative remedies should not apply.26 ¶ B. Rationale of the United States Supreme Court ¶ Whereas the Second Circuit realized the distinction between seri- ous claims of excessive force and daily prison conditions, the Su- preme Court focused on the need to rid the court system of frivolous claims and excessive inmate litigation. As a result, the Court placed grievances for physical abuse into the same category as general prison complaints. ¶ The United States Supreme Court reversed the Second Circuit decision in Porter v. Nussle, holding that the "exhaustion requirement applies to all inmate suits about prison life, whether they involve gen- eral circumstances or particular episodes, and ...allege excessive force or some other wrong.'"27 The Court reasoned that § 1997e(a) ac- tions with respect to "prison conditions" were challenges against conditions of confinement, and that included complaints of excessive ¶ force.28 The Court stressed that the important policy interests in ap- plying the doctrine of exhaustion of administrative remedies to pris- oner litigation were: (1) to "afford corrections officials time and op- portunity to address complaints ...within the corrections system before allowing the initiation of a federal case" 29 and (2) the more dominant concern, to "filter out ...frivolous claims. ' 30 It appears that the Supreme Court did not take into account our troubled prison sys- tem, nor did the Court foresee that inmate litigation regarding unfair and inconsistent administrative remedies would continue to burden federal courts. Eliminating judicial discretion and placing it in the hands of correctional officers allows misconduct to go unreported and unpunished when guards wield their power in improper ways by creating officer allegiances that stifle accountability.3 It is difficult for those behind prison bars to get society to listen to them and, even more difficult, to get them to have sympathy. This becomes a more onerous task when prison life is either exaggerated or downplayed to the extent the public is misinformed. In passing the PLRA, Congress did not accurately represent prisoner litigation and scarcely mentioned the problem of inmate abuse, thus implying its insignificance. The problem is not created because those who become prison guards are bad people. In fact, those who mistreat inmates de- moralize the corrections officers who perform their "difficult job with diligence and professionalism. ' 32 The problem exists because there is a negative facet in the human mind that can act out in harmful ways when given power and control over others. The corrections system must recognize and acknowledge the potential for this problem and discipline accordingly, instead of protecting the wrongdoers stemming from the "us versus them" mentality that tends to exist between prison guards and inmates. ¶ "Some believe that this legislation which has a far-reaching ef- fect on prison conditions and prisoners' rights deserved to have been the subject of significant debate. It was not."33 ¶ The Senators supporting passage of the PLRA painted a picture of inmate litigation as entirely frivolous, reporting exaggerated examples of prisoner claims such as being served chunky peanut butter instead of creamy, not being invited to a pizza party, and insufficient storage locker space, to name a few.14 One reason for overstating prison com- plaints could be because the goal of the PLRA was to limit prisoner lawsuits and to deter federal courts from "micromanaging America's prisons."35 What emerged from the congressional debates was a sentiment that all inmate litigation is inherently trivial, and few spoke out on behalf of the many meritorious prisoner claims of excessive force.36 ¶ Although Senators spoke harshly against the discretion given to federal judges,37 the underlying purpose of the PLRA was to reduce the number of petitions filed by inmates claiming civil rights viola- tions, petitions that clog the court docket and cost the judicial system tremendous amounts of money.38 Congressional proponents of the PLRA stressed their point through statistics, showing a vast increase in the number of lawsuits filed by inmates, increasing from "6,606 in 1975 to 39,065 in 1994."39 These statistics, however, were not taken in the proper context and thus swayed others into believing the sole reason for the increase in litigation was litigious inmates bringing meritless claims. It was quite unfair for Congress to blame the in- crease in lawsuits on idle prisoners when in actuality it was primarily attributable to the increase in the prison population.'n In fact, between 1980 and 1995, the rate at which state inmates filed civil rights claims ¶ was stable, even with the prison population increasing more than threefold.4 Moreover, it is only a natural effect for escalation in the nation's prison population to cause an increase in prisoner litigation.4 2 ¶ Congress was mistaken to strongly intimate that the federal courts monitor only petty prisoner complaints. In fact, a 1995 Bureau of Jus- tice Statistics report indicated that physical security was the most fre- quently cited issue in civil rights petitions filed by inmates. 3 ¶ Congress maintained that the PLRA was intended to "help restore balance to prison conditions litigation and . . . ensure that federal court orders would be limited to remedying actual violations of pris- ¶ oners' rights."' But the exhaustion of remedies requirement prohibits federal courts from hearing any claim unless the inmate exhausts all administrative remedies within the correctional institution. To fulfill its objective of remedying actual violations, Congress should have created an excessive force exception to § 1997e(a) instead of a "broad exhaustion requirement to ensnare ' 45 all forms of inmate grievances.4 6 In essence, Congress and the Supreme Court have blocked inmates' access to federal court. This was done in haste47 and was done with- out explaining the statistics or adequately representing actual viola- tions against prisoners in the form of abuse.48 If Congress plans on concealing the harsh realities of inmate life and the Supreme Court defers to their judgment, it becomes difficult for society to appreciate the problems of abuse, and that diminishes the chance for change.

### Part 3 is the courtroom:

#### Qualified immunity protects officers who failed to protect or adequately address survivors in the cases of Intimate partner violence

Farber 08 2008 (7) AELE Mo. L. J. 101 Civil Liability Law Section – July, 2008 Civil Liability and Domestic Violence Calls – Part Three <http://www.aele.org/law/2008LRJUL/2008-7MLJ101.pdf> p. 108 Bernard J. Farber Civil Liability Law Editor KAE

Also of interest is Shipp v. McMahon, #98-31317, 234 F.3d 907 (5th Cir. 2000), in which a federal appeals court set forth a legal test for an equal protection claim based on unequal protection given to victims of domestic violence, while holding that sheriffs and deputies were entitled to qualified immunity from liability for failure to prevent husband's abduction, rape, and shooting of his estranged wife, since the law was not previously "clearly established" on the subject. The court found that a possible alternate ground for liability, however, might be based on ill will towards the victim as a "class of one." Same-sex couples, including live-in domestic partners or, in several states now, spouses, are sometimes also involved in domestic disputes, and there have been claims in a number of cases that law enforcement personnel engaged in sexual orientation discrimination in responding to domestic violence calls by gay or lesbian persons. In Price-Cornelison v. Brooks, No. 05-6140, 2008 U.S. App. Lexis 9628, 524 F.3d 1103, (10th Cir.), the court ruled that an undersheriff was entitled to qualified immunity on an equal protection claim asserted by a lesbian who obtained an emergency protective order based on alleged domestic violence by her estranged girlfriend, but not on claims that he refused to enforce a permanent protective 108 order that she subsequently obtained. The emergency order allowed the girlfriend to access the home for a period of time to retrieve some of her property, while the permanent order barred her from the premises altogether. The plaintiff claimed that she was provided with a lesser degree of protection than that provided to heterosexual victims of domestic violence. The court also allowed a Fourth Amendment claim to proceed on the basis that the undersheriff told the plaintiff not to return to her home while her girlfriend was present, and that he would arrest her if she did, which allegedly facilitated the girlfriend's seizure of some of the plaintiff's property from the premises.

#### Qualified immunity creates unnecessary barriers for accountability of police officials and prison administrators in the context of sexual assault; setting precedents to prevent curtailed abuse

Bell et all 99 1999 Yale Law & Policy Review Article 6 Rape and Sexual Misconduct in the Prison System: Analyzing America's Most "Open" Secret Cheryl Bell Martha Coven John P. Cronan Christian A. Garza Janet Guggemos <http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1385&context=ylpr> p. 213 KAE bracketed for grammar

In Carrigan v. Delaware, even when an official was aware of incidents of sexual harassment within his prison, that awareness was not sufficient to constitute “deliberate indifference to a substantial risk of serious harm.” The rationale that the court adopted was that because this was the first rape that the specific plaintiff had brought to the attention of the official, there was “no display of deliberate indifference.” Therefore, as interpreted by the circuit courts, Farmer [have] significantly limited the circumstances in which judges can hold prison officials accountable. The doctrine of qualified immunity also limits the liability of prison administrators. Qualified immunity balances the constitutional rights of inmates against a reasonable deference to prison administrators’ policy determinations within their particular facilities. In Carrigan, the court ruled that the defendants enjoyed qualified immunity under the Harlow-Anderson formula. Under Harlow-Anderson, defendants have qualified immunity unless the plaintiffs: 1) state a claim that their constitutional rights have been violated; 2) demonstrate that the rights and law at issue are clearly established; and 3) show that a reasonably competent official should have known that his or her conduct was unlawful. The Carrigan court ruled that the administrator was entitled to qualified immunity because the law was not clearly established in the area of sexual assault by a prison guard, rape counseling, training policies, or procedures the prison officials must follow to avoid incidents. Consistent with this holding, plaintiffs must further prove that the law-making defendant’s conduct unconstitutional is clearly established, thereby increasing the difficulty of holding officials responsible.

#### Qualified immunity makes it impossible for victims to receive redress

Harper ‘90 (Laura S. is a writer for the Cornell Law Review specializing in domestic violence) “Battered Women Suing Police for Failure to Intervene: Viable Legal Avenues After Deshaney v. Winnibago County Department of Social Services” Cornell Law Review Article 4 Volume 75 Issue 6 September 1990 <http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=3473&context=clr> KAE

Should a battered woman plaintiff proffer sufficient evidence of an equal protection or due process violation, municipal police officers can still assert a qualified immunity defense.47 Under the qualified immunity doctrine, state officers performing discretionary functions48 are immune from lawsuits for damages provided their conduct does not violate "clearly established statutory or constitutional rights of which a reasonable person would have known." 49 A municipality itself, however, cannot invoke the qualified immunity defense. 50 Thus, courts have allowed suits involving an unconstitutional policy or custom to proceed against a city even when qualified immunity shields the individual police officers who executed the challenged policy. 51 Because qualified immunity entitles an officer to "immunity from suit," a defendant-officer must assert the defense on a motion for summary judgment.52 If a plaintiff proffers evidence creating a genuine and material issue of fact,53 this defense is lost and the case proceeds to trial.54 Courts will grant qualified immunity "if reasonable officials in the defendants' position at the relevant time could have believed, in light of clearly established law, that their conduct comported with established legal principles." 55 Based on this objective test, an officer's entitlement to qualified immunity depends on the clarity of the law as it existed when a defendant-officer acted or failed to act.56 "IT]he contours of the [constitutional] right must be sufficiently clear that a reasonable official would understand that what he is doing violates the law."' 57 Section 1983 litigation involving battered women represents an evolving area of law in which the Supreme Court has not ruled, lower courts have been inconsistent, and many court opinions have either gone unpublished or cases have been dismissed due to settlements between the parties.58 Thus, police officers can argue that the law was not "clearly established" as an authoritative guide to their conduct in responding to domestic violence situations. 59 The Third Circuit applied the qualified immunity doctrine to a case in which the mother and children of a battered woman decedent brought an equal protection claim under section 1983 against police officers who failed to protect the decedent.60 The court explained the rationale for the qualified immunity defense as 46a compromise between the conflicting concerns of permitting the recovery of damages for vindication of constitutional rights caused by the abuse of public office and permitting government officers to perform discretionary functions without fear of harassing litigation." 61 The court, after reviewing general qualified immunity doctrine, enunciated the following standard for battered women's equal protection claims: [A] police officer loses a qualified immunity to a claim that a facially neutral policy is executed in a discriminatory manner only if a reasonable police officer would know that the policy has a discriminatory impact on women, that bias against women was a motivating factor behind the adoption of the policy, and that there is no important public interest served by the adoption of the policy.62 This standard merely restates the elements of a gender-neutral equal protection claim. 63 Regarding the intent element, a police officer can argue that a reasonable officer in his position would not know that the originators of the policy were biased against women, or that this bias was a reason for adopting the police policy. Thus, the Third Circuit standard exemplifies the combined effect of the qualified immunity doctrine and a gender-neutral equal protection standard-a powerftl defense for police officers, and a formidable hurdle for battered women seeking redress for the deprivation of their constitutional rights.

### Part 4 is the resistance (?):

#### Thus, the advocacy is that the United States federal government should limit qualified immunity for police officers by removing the clearly established standard.

#### Reform is needed to create a stable application of qualified immunity – legal standards advocate for the plan. Subjective legal standards are always reinstated as racist ones which actively creates a need for solvency.

Wright 15 [Want to Fight Police Misconduct? Reform Qualified Immunity](http://abovethelaw.com/2015/11/want-to-fight-police-misconduct-reform-qualified-immunity/) By [SAM WRIGHT](http://abovethelaw.com/author/samwright/) [26 Comments](http://abovethelaw.com/2015/11/want-to-fight-police-misconduct-reform-qualified-immunity/#disqus_thread) / Nov 3, 2015 at 2:05 PM http://abovethelaw.com/2015/11/want-to-fight-police-misconduct-reform-qualified-immunity/

Instead, police officers have recourse to the broad protections of the judicially established doctrine of qualified immunity. Under this doctrine, state actors are protected from suit even if they’ve violated the law by, say, using excessive force, or performing an unwarranted body cavity search — as long as their violation was not one of “clearly established law of which a reasonable officer would be aware.” In other words, if there’s not already a case where a court has held that an officer’s identical or near-identical conduct rose to the level of a constitutional violation, there’s a good chance that even an obviously malfeasant officer will avoid liability — will avoid accountability. To bring about true accountability and change police behavior, this needs to change. And change should begin with an act of Congress rolling back qualified immunity. Removing the “clearly established” element of qualified immunity would be a good start — after all, shouldn’t it be enough to deviate from a basic standard of care, to engage in conduct that a reasonable officer would know is illegal, without having to show that that conduct’s illegality has already been clearly established in the courts? That’s just a start. There are plenty of other reforms that could open up civil rights lawsuits and help ensure police accountability for bad conduct. Two posts ([one](http://balkin.blogspot.com/2015/10/whats-missing-in-police-reform-debate.html), [two](http://balkin.blogspot.com/2015/10/whats-missing-in-police-reform-debate_20.html)) at Balkinization by City University of New York professor Lynda Dodd provide a good overview. Campaign Zero should consider adding civil rights litigation reform to its platform, our policymakers should consider making civil rights litigation more robust, and, if we want to see justice done, we should push to make it happen.

#### Accountability causes a cultural shift away from abusive prison practices that make violence inevitable.

Rothenberg 15 David, Associate Vice President of the Hope Society. “You can judge a society by how it treats its people in its prisons” Fortune Society. 3/9/15 KAE

Frederick Douglass — the social reformer, orator, and former slave — once said, “Power corrupts and absolute power corrupts absolutely.” In no place is this truer today than in our jails and prisons. We have given birth to a system where jail/prison guards have absolute power, power to abuse jail/prison residents with almost complete impunity. In the past few weeks, the New York Times reported on patterns of abuse that take place on Rikers Island and in Attica, a New York state prison. The Department of Justice issued a scathing report on the “deep-seated culture of violence” against adolescents on Rikers. And U.S. Attorney Preet Bharara stated unequivocally that, “for adolescent inmates, Rikers Island is broken.” I commend the New York Times and the DOJ for their reporting. However, they didn’t discover nor uncover brutality of which we weren’t aware. Indeed abuse in these institutions has been rampant for eons. It just hasn’t been important enough to become front-page news. I was there. I spent 15 years inside, more than 11 of them in maximum-security prisons. I recall seeing incidents of violence exacted against individuals by guards, and I heard about it from victims, witnesses, and through the grapevine, which included officers and civilians. I recall a time when I was on Rikers in the “bing” (solitary confinement). The guy in the cell next to me had an argument with an officer. They slung verbal insults at one another before the officer capitulated and walked off. In the wee hours of the morning, I was awakened by the screams of my neighbor as guards were beating him–almost certainly for the earlier verbal exchange. The next day it was business as usual. My neighbor didn’t even go to the infirmary, although he confessed to having been beaten pretty severely. When I was transferred upstate, the saga of violence continued. It was not uncommon for an individual to be handcuffed and kicked down a flight of stairs, have his head rammed into a wall, or to be beaten with batons until bones were broken. I recall being in a prison near Syracuse where the winters are brutally cold. On multiple occasions, a few guards would open the windows and leave them open for hours because someone had not complied with an order, a radio was blasting, guys were talking too loud, or someone had cursed at an officer. In a prison near the Canadian border, in a unit where people were housed in transit, guards would not only open the windows, they would sometimes secure a hose and spray individuals with cold water. The violence wasn’t always physical. I happened to be in the prison yard when fights erupted. Several times the officer in the tower responded by ordering everyone to the ground. When people didn’t hastily hit the deck, the guard would fire shots into the ground near the incident or over the heads of the guys fighting even though there might be dozens of people in the vicinity. I remember also seeing a guy, who clearly suffered from mental illness, strike a female guard in the face. He was swiftly subdued and transferred to the box. My immediate thought was that he would be beaten to a bloody pulp. Indeed, the spiel ordinarily given to people being processed in reception is that, if you put your hands on a guard, you would be made to pay for it dearly. If we know that this abuse occurs, why do we tolerate it? Much of it has to do with the perception of the people in these facilities. They are “criminals,” “cons,” and “prisoners.” Just like the U.S. did with Blacks during slavery, these individuals have been dehumanized. And they have limited power or recourse to change the behavior of their handlers. A huge part of the problem is that the system perpetuates itself. There is little scrutiny of what transpires inside prison. When abuse happens, what is an incarcerated person to do? Grievance programs are incapable of addressing these issues; supervisors often don’t care or will not reprimand their officers for fear they will be perceived as coddling to “inmates,” and other staff simply turn a blind eye because it’s clearly not in their interest to report abuse. Although these callous acts of violence are usually carried out by a select few, even those who don’t condone the violence are powerless to stop it. Moreover, despite evidence of unprovoked patterns of abuse and systemic violence perpetrated against people in prison, the unions that represent guards always insist that inmates are violent and that guards employ only the amount of force that is necessary to quell a situation. There is talk about addressing the violence by installing cameras. Cameras can make a difference, but they are no panacea. Cameras can be turned off or manipulated. If guards want to beat a person, they can simply take him to a place where there are no cameras. Technology can improve the human condition, videos can shock the conscience, but the violence will persist until the culture changes. Simply put, it has become acceptable to beat or brutalize people in jails and prisons in the name of maintaining order. The proof is in the pudding — guards are rarely ever disciplined for acts of violence, it is very rare that they are fired, and they are almost never prosecuted for these actions. And if a case is prosecuted, the outcome confirms the contradictions in our society. The most recent example is the Attica case. Notwithstanding the evidence of guilt against the three officers, they were allowed to plead guilty to a misdemeanor, retire, and keep their pensions. They had raised thousands of dollars and hired high-powered defense attorneys. The savage beating was deemed appropriate, a fair response for someone working with “the lowest of the low.” Over the past few decades, Americans have mounted campaigns against violence. As a society, we want people to go about their daily lives without fear of being assaulted or abused. We train parents not to abuse their children. People are urged not to mistreat their pets. A rich and hugely popular football star was sent to prison for dog fighting; he was put to shame for his crime. We care about children, we adore our pets, but we care very little about “criminals,” even if they haven’t been convicted of a crime. It is a crime to physically assault someone, especially to the point of breaking bones, knocking out teeth, and causing permanent physical and/or psychological damage, unless the perpetrator does so wearing the uniform of an officer. Unless there is a culture change and laws start to apply to guards as much as they do to the people for whom they are there to provide care, custody and control, then nothing will change. There needs to be real accountability and oversight. When violence is pervasive, it acts like a disease. Like any disease, you can treat the symptoms, but the infection will continue to fester. A nip here, a tuck there will not do it. Removal of a few cancer cells will not eradicate the disease. As with any epidemic, you must treat the underlying cause of the disease. This raises a fundamental question about the system — can it be reformed? Then again, how much reform is needed for us to have jails/prisons where people are treated humanely as a matter of law? I have never considered myself a prison abolitionist, but there is a compelling argument to abolish prisons as they currently exist. There are prisons in other countries where the incarcerated population retains its dignity and humanity. Some people need to be imprisoned, but the law should protect them too.

#### Gendered violence has historically been depoliticized and privatized – as ALWAYS external to normative impact calculus both inside and outside of debate – Thus you must prioritize the slow violence that has been erased in conversations about “high” politics

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This large and at first sight “messy” Part VII is central to this antholgy’s thesis. It encompasses everything from the routinized, bureaucratized, and utterly banal violence of children dying of hunger and maternal despair in Northeast Brazil (Scheper-Hughes, Chapter 33) to elderly African Americans dying of heat stroke in Mayor Daly’s version of US apartheid in Chicago’s South Side (Klinenberg, Chapter 38) to the racialized class hatred expressed by British Victorians in their olfactory disgust of the “smelly” working classes (Orwell, Chapter 36). In these readings violence is located in the symbolic and social structures that overdetermine and allow the criminalized drug addictions, interpersonal bloodshed, and racially patterned incarcerations that characterize the US “inner city” to be normalized (Bourgois, Chapter 37 and Wacquant, Chapter 39). Violence also takes the form of class, racial, political self-hatred and adolescent self-destruction (Quesada, Chapter 35), as well as of useless (i.e.  preventable), rawly embodied physical suffering, and death (Farmer, Chapter 34).  Absolutely central to our approach is a blurring of categories and distinctions between wartime and peacetime violence. Close attention to the “little” violences produced in the structures, habituses, and mentalites of everyday life shifts our attention to pathologies of class, race, and gender inequalities. More important, it interrupts the voyeuristic tendencies of “violence studies” that risk publicly humiliating the powerless who are often forced into complicity with social and individual pathologies of power because suffering is often a solvent of human integrity and dignity. Thus, in this anthology we are positing a violence continuum comprised of a multitude of “small wars and invisible genocides” (see also Scheper- Hughes 1996; 1997; 2000b) conducted in the normative social spaces of public schools, clinics, emergency rooms, hospital wards, nursing homes, courtrooms, public registry offices, prisons, detention centers, and public morgues. The violence continuum also refers to the ease with which humans are capable of reducing the socially vulnerable into expendable nonpersons and assuming the license - even the duty - to kill, maim, or soul-murder. We realize that in referring to a violence and a genocide continuum we are flying in the face of a tradition of genocide studies that argues for the absolute uniqueness of the Jewish Holocaust and for vigilance with respect to restricted purist use of the term genocide itself (see Kuper 1985; Chaulk 1999; Fein 1990; Chorbajian 1999). But we hold an opposing and alternative view that, to the contrary, it is absolutely necessary to make just such existential leaps in purposefully linking violent acts in normal times to those of abnormal times. Hence the title of our volume: Violence in War and in Peace. If (as we concede) there is a moral risk in overextending the concept of “genocide” into spaces and corners of everyday life where we might not ordinarily think to find it (and there is), an even greater risk lies in failing to sensitize ourselves, in misrecognizing protogenocidal practices and sentiments daily enacted as normative behavior by “ordinary” good-enough citizens. Peacetime crimes, such as prison construction sold as economic development to impoverished communities in the mountains and deserts of California, or the evolution of the criminal industrial complex into the latest peculiar institution for managing race relations in the United States (Waquant, Chapter 39 constitute the “small wars and invisible genocides” to which we refer. This applies to African American and Latino youth mortality statistics in Oakland, California, Baltimore, Washington DC, and New York City. These are “invisible” genocides not because they are secreted away or hidden from view, but quite the opposite.  As Wittgenstein observed, the things that are hardest to perceive are those which are right before our eyes and therefore taken for granted. In this regard, Bourdieu’s partial and unfinished theory of violence (see Chapters 32 and 42) as well as his concept of misrecognition is crucial to our task. By including the normative everyday forms of violence hidden in the minutiae of “normal” social practices - in the architecture of homes, in gender relations, in communal work, in the exchange of gifts, and so forth - Bourdieu forces us to reconsider the broader meanings and status of violence, especially the links between the violence of everyday life and explicit political terror and state repression, Similarly, Basaglia’s notion of “peacetime crimes” - crimini di pace - imagines a direct relationship between wartime and peacetime violence. Peacetime crimes suggests the possibility that war crimes are merely ordinary, everyday crimes of public consent applied systematically and dramatically in the extreme context of war. Consider the parallel uses of rape during peacetime and wartime, or the family resemblances between the legalized violence of US immigration and naturalization border raids on “illegal aliens” versus the US government- engineered genocide in 1938, known as the Cherokee “Trail of Tears.” Peacetime crimes suggests that **everyday forms of state violence make a certain kind of domestic peace possible**.  Internal “stability” is purchased with the currency of peacetime crimes, many of which take the form of professionally applied “strangle-holds.” Everyday forms of state violence during peacetime make a certain kind of domestic “peace” possible. It is an easy-to-identify peacetime crime that is usually maintained as a public secret by the government and by a scared or apathetic populace. Most subtly, but no less politically or structurally, the phenomenal growth in the United States of a new military, postindustrial prison industrial complex has taken place in the absence of broad-based opposition, let alone collective acts of civil disobedience. The public consensus is based primarily on a new mobilization of an old fear of the mob, the mugger, the rapist, the Black man, the undeserving poor. How many public executions of mentally deficient prisoners in the United States are needed to make life feel more secure for the affluent? What can it possibly mean when incarceration becomes the “normative” socializing experience for ethnic minority youth in a society, i.e., over 33 percent of young African American men (Prison Watch 2002).  In the end it is essential that we recognize the existence of a genocidal capacity among otherwise good-enough humans and that we need to exercise a defensive hypervigilance to the less dramatic, permitted, and even rewarded everyday acts of violence that render participation in genocidal acts and policies possible (under adverse political or economic conditions), perhaps more easily than we would like to recognize. Under the violence continuum we include, therefore, all expressions of radical social exclusion, dehumanization, depersonalization, pseudospeciation, and reification which normalize atrocious behavior and violence toward others. A constant self-mobilization for alarm, a state of constant hyperarousal is, perhaps, a reasonable response to Benjamin’s view of late modern history as a chronic “state of emergency” (Taussig, Chapter 31). We are trying to recover here the classic anagogic thinking that enabled Erving Goffman, Jules Henry, C. Wright Mills, and Franco Basaglia among other mid-twentieth-century radically critical thinkers, to perceive the symbolic and structural relations, i.e., between inmates and patients, between concentration camps, prisons, mental hospitals, nursing homes, and other “total institutions.” Making that decisive move to recognize the continuum of violence allows us to see the capacity and the willingness - if not enthusiasm - of ordinary people, the practical technicians of the social consensus, to enforce genocidal-like crimes against categories of rubbish people. There is no primary impulse out of which mass violence and genocide are born, it is ingrained in the common sense of everyday social life.  The mad, the differently abled, the mentally vulnerable have often fallen into this category of the unworthy living, as have the very old and infirm, the sick-poor, and, of course, the despised racial, religious, sexual, and ethnic groups of the moment. Erik Erikson referred to “pseudo- speciation” as the human tendency to classify some individuals or social groups as less than fully human - a prerequisite to genocide and one that is carefully honed during the unremark- able peacetimes that precede the sudden, “seemingly unintelligible” outbreaks of mass violence. Collective denial and misrecognition are prerequisites for mass violence and genocide. But so are formal bureaucratic structures and professional roles. The practical technicians of everyday violence in the backlands of Northeast Brazil (Scheper-Hughes, Chapter 33), for example, include the clinic doctors who prescribe powerful tranquilizers to fretful and frightfully hungry babies, the Catholic priests who celebrate the death of “angel-babies,” and the municipal bureaucrats who dispense free baby coffins but no food to hungry families.  Everyday violence encompasses the implicit, legitimate, and routinized forms of violence inherent in particular social, economic, and political formations. It is close to what Bourdieu (1977, 1996) means by “symbolic violence,” the violence that is often “nus-recognized” for something else, usually something good. Everyday violence is similar to what Taussig (1989) calls “terror as usual.” All these terms are meant to reveal a public secret - the hidden links between violence in war and violence in peace, and between war crimes and “peace-time crimes.” Bourdieu (1977) finds domination and violence in the least likely places - in courtship and marriage, in the exchange of gifts, in systems of classification, in style, art, and culinary taste- the various uses of culture. Violence, Bourdieu insists, is everywhere in social practice. It is misrecognized because its very everydayness and its familiarity render it invisible. Lacan identifies “rneconnaissance” as the prerequisite of the social. The exploitation of bachelor sons, robbing them of autonomy, independence, and progeny, within the structures of family farming in the European countryside that Bourdieu escaped is a case in point (Bourdieu, Chapter 42; see also Scheper-Hughes, 2000b; Favret-Saada, 1989).  Following Gramsci, Foucault, Sartre, Arendt, and other modern theorists of power-violence, Bourdieu treats direct aggression and physical violence as a crude, uneconomical mode of domination; it is less efficient and, according to Arendt (1969), it is certainly less legitimate.  While power and symbolic domination are not to be equated with violence - and Arendt argues persuasively that violence is to be understood as a failure of power - violence, as we are presenting it here, is more than simply the expression of illegitimate physical force against a person or group of persons. Rather, we need to understand violence as encompassing all forms of “controlling processes” (Nader 1997b) that assault basic human freedoms and individual or collective survival. Our task is to recognize these gray zones of violence which are, by definition, not obvious. Once again, the point of bringing into the discourses on genocide everyday, normative experiences of reification, depersonalization, institutional confinement, and acceptable death is to help answer the question: What makes mass violence and genocide possible? In this volume we are suggesting that mass violence is part of a continuum, and that it is socially incremental and often experienced by perpetrators, collaborators, bystanders - and even by victims themselves - as expected, routine, even justified. The preparations for mass killing can be found in social sentiments and institutions from the family, to schools, churches, hospitals, and the military. They harbor the early “warning signs” (Charney 1991), the “priming” (as Hinton, ed., 2002 calls it), or the “genocidal continuum” (as we call it) that push social consensus toward devaluing certain forms of human life and lifeways from the refusal of social support and humane care to vulnerable “social parasites” (the nursing home elderly, “welfare queens,” undocumented immigrants, drug addicts) to the militarization of everyday life (super-maximum-security prisons, capital punishment; the technologies of heightened personal security, including the house gun and gated communities; and reversed feelings of victimization)

#### The prison system reproduces itself through educational spaces like debate; resisting further prison industrialization is a prior question to resolving other standpoints of oppression. Thus, the role of the ballot is to validate a movement to deconstruct the prison industrial complex.

Rodriguez 10 Professor and Chair of Ethnic Studies @ UC Riverside Dylan Rodríguez, “The Disorientation of the Teaching Act: Abolition as Pedagogical Position,” Radical Teacher, Number 88 (Summer 2010) The (Pedagogical) Necessity of the Impossible. Pg 12-17 KAE

A compulsory deferral of abolitionist pedagogical possibilities composes the largely unaddressed precedent of teaching in the current historical period. It is this deferral—generally unacknowledged and largely presumed—that both undermines the emergence of an abolitionist pedagogical praxis and illuminates abolitionism’s necessity as a dynamic practice of social transformation, over and against liberal and progressive appropriations of “critical/ radical pedagogy.” Contrary to the thinly disguised ideological Alinskyism that contemporary liberal, progressive, critical, and “radical” teaching generally and tacitly assumes in relation to the prison regime, what is usually required, and what usually works as a strategy for teaching against the carceral common sense, is a pedagogical approach that asks the unaskable, posits the necessity of the impossible, and embraces the creative danger inherent in liberationist futures. About a decade of teaching a variety of courses at the undergraduate and graduate levels at one of the most demographically diverse research universities in the United States (the University of California, Riverside) has allowed me the opportunity to experiment with the curricular content, assignment form, pedagogical mode, and conceptual organization of coursework that directly or tangentially addresses the formation of the U.S. prison regime and prison industrial complex. Students are consistently (and often unanimously) eager to locate their studies within an abolitionist genealogy—often understanding their work as potentially connected to a living his- tory of radical social movements and epistemological-political revolt—and tend to embrace the high academic demands and rigor of these courses with far less resistance and ambivalence than in many of my other Ethnic Studies courses. Here are some immediate analytical and scholarly tools that form a basic pedagogical apparatus for productively exploding the generalized common sense that creates and surrounds the U.S. prison regime. In fact, it is crucial for teachers and students to collectively understand that it is precisely the circulation and concrete enactment of this common sense that makes it central to the prison regime, not simply an ideological “supplement” of it. Put differently, many students and teachers have a tendency to presume that the cultural symbols and popular discourses that signify and give common sense meaning to prisons and policing are external to the prison regime, as if these symbols and discourses (produced through mass media, state spokespersons and elected officials, right-wing think tanks, video games, television crime dramas, etc.) simply amount to “bad” or “deceptive” propaganda that conspiratorially hide some essential “truth” about prisons that can be uncovered. is is a seductive and self-explanatory, but far too simplistic, way of understanding how the prison regime thrives. What we require, instead, is a sustained analytical discussion that considers how multiple layers of knowledge—including common sense and its different cultural forms—are constantly producing a “lived truth” of policing and prisons that has nothing at all to do with an essential, objective truth. Rather, this fabricated, lived truth forms the tem- plate of everyday life through which we come to believe that we more or less understand and “know” the prison and policing apparatus, and which dynamically produces our consent and/or surrender to its epochal oppressive violence. As a pedagogical tool, this framework compels students and teachers to examine how deeply engaged they are in the violent common sense of the prison and the racist state. Who is left for dead in the com- mon discourse of crime, “innocence,” and “guilt”? How has the mundane institutionalized violence of the racist state become so normalized as to be generally beyond comment? What has made the prison and policing apparatus in its current form appear to be so permanent, necessary, and immovable within the common sense of social change and historical transformation? In this sense, teachers and students can attempt to concretely understand how they are a dynamic part of the prison regime’s production and reproduction— and thus how they might also be part of its abolition through the work of building and teaching a radical and liberatory common sense (this is political work that any- one can do, ideally as part of a community of social movement). Additionally, the abolitionist teacher can prioritize a rigorous—and vigorous— critique of the endemic complicities of liberal/progressive reformism to the transformation, expansion, and ultimate reproduction of racist state violence and (proto)genocide; this entails a radical critique of everything from the sociopolitical legacies of “civil rights” and the oppressive capacities of “human rights” to the racist state’s direct assimilation of 1970s-era “prison reform” agendas into the blue- prints for massive prison expansion discussed above.17 e abolitionist teacher must be willing to occupy the di cult and often uncomfortable position of political leadership in the classroom. To some, this reads as a direct violation of Freirian conceptions of critical pedagogy, but I would argue that it is really an elaboration and amplification of the revolutionary spirit at the heart of Freire’s entire lifework. at is, how can a teacher expect her/ his students to undertake the courageous and di cult work of inhabiting an abolitionist positionality—even if only as an “academic” exercise—unless the teacher herself/himself embodies, performs, and oozes that very same political desire? In fact, it often seems that doing the latter is enough to compel many students (at least momentarily) to become intimate and familiar with the allegedly impossible. Finally, the horizon of the possible is only constrained by one’s pedagogical willingness to locate a particular political struggle (here, prison abolition) within the long and living history of liberation movements. In this context, “prison abolition” can be understood as one important strain within a continuously unfurling fabric of liberationist political horizons, in which the imagination of the possible and the practical is shaped but not limited by the specific material and institutional conditions within which one lives. It is useful to continually ask: on whose shoulders does one sit, when undertaking the audacious identifications and political practices endemic to an abolitionist pedagogy? Here is something profoundly indelible and emboldening in realizing that one’s “own” political struggle is deeply connected to a vibrant, robust, creative, and beautiful legacy of collective imagination and creative social labor (and of course, there are crucial ways of comprehending historical liberation struggles in all their forms, from guerilla warfare to dance). While I do not expect to arrive at a wholly satisfactory pedagogical endpoint anytime soon, and am therefore hesitant to o er prescriptive examples of “how to teach” within an abolitionist framework, I also believe that rigorous experimentation and creative pedagogical radicalism is the very soul of this praxis. ere is, in the end, no teaching formula or pedagogical system that nally ful lls the abolitionist social vision, there is only a political desire that understands the immediacy of struggling for human liberation from precisely those forms of systemic violence and institutionalized dehumanization that are most culturally and politically sanctioned, valorized, and taken for granted within one’s own pedagogical moment. To refuse or resist this desire is to be unaccountable to the historical truth of our moment, in which the structural logic and physiological technologies of social liquidation (removal from or effective neutralization within civil society) have merged with history’s greatest experiment in punitive human captivity, a linkage that increasingly lays bare racism’s logical outcome in genocide.1 Given the historical context I have brie y outlined, and the practical-theoretical need for situating an abolitionist praxis within a longer tradition of freedom struggle, I contend that there can be nonliberatory teaching act, nor can there be an adequately critical pedagogical practice, that does not also attempt to become an abolitionist one. Provisionally, I am conceptualizing abolition as a praxis of liberation that is creative and experimental rather than formulaic and rigidly programmatic. Abolition is a “radical” political position, as well as a perpetually creative and experimental pedagogy, because formulaic approaches cannot adequately apprehend the biopolitics, dynamic statecraft, and internalized violence of genocidal and proto-genocidal systems of human domination. As a productive and creative praxis, this conception of abolition posits the material possibility and historical necessity of a social capacity for human freedom based on a cultural-economic infrastructure that supports the transformation of oppressive relations that are the legacy of genocidal conquest, settler colonialism, racial slavery/capitalism,19 compulsory hetero-patriarchies, and global white supremacy. In this sense, abolitionist praxis does not singularly concern itself with the “abolition of NUMBER 88 • RADICAL TEACHER This content downloaded from 70.112.144.221 on Mon, 28 Nov 2016 01:50:25 UTC All use subject to http://about.jstor.org/terms 15 the prison industrial complex,” although it fundamentally and strategically prioritizes the prison as a central site for catalyzing broader, radical social transformations. In significant part, this suggests envisioning and ultimately constructing “a constellation of alternative strategies and institutions, with the ultimate aim of removing the prison from the social and ideological landscape of our society.”20 In locating abolitionist praxis within a longer political genealogy that anticipates the task of remaking the world under transformed material circumstances, this position refracts the most radical and revolutionary dimensions of a historical Black freedom struggle that positioned the abolition of “slavery” as the condition of possibility for Black—hence “human”—freedom. To situate contemporary abolitionism as such is also to recall the U.S. racist state’s (and its liberal allies’) displacement and effective political criminalization of Black radical abolitionism through the 13th Amendment’s 1865 recodification of the slave relation through the juridical re- invention of a racial-carceral relation: Amendment XIII Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Given the institutional elaborations of racial criminalization, policing, and massive imprisonment that have prevailed on the 13th Amendment’s essential authorization to replace a regime of racist chattel slavery with racist carceral state violence, it is incumbent on the radical teacher to assess the density of her/his entanglement in this historically layered condition of violence, immobilization, and capture. Prior to the work of formulating an executive curriculum and teaching strategy for critically engaging the prison industrial complex, in other words, is the even more difficult work of examining the assumptive limitations of any “radical pedagogy” that does not attempt to displace an epistemological and cultural common sense in which the relative order and peace of the classroom is perpetually reproduced by the systemic disorder and deep violence of the prison regime. In relation to the radical challenging of common sense discussed above, another critical analytical tool for building an abolitionist pedagogy entails the rigorous, scholarly dismantling of the “presentist” and deeply ahistorical understanding of policing and prisons. Students (and many teachers) frequently enter such dialogues with an utterly mystified conception of the policing and prison apparatus, and do not generally understand that 1) these apparatuses in their current form are very recent creations, and have not been around “forever”; and 2) the rise of these institutional forms of criminalization, domestic war, and mass-scale imprisonment forms one link in a historical chain of genocidal and proto-genocidal mobilizations of the racist state that regularly take place as part of the deadly global process of U.S. nation-building. In other words, not only is the prison regime a very recent invention of the state (and therefore is neither a “permanent” nor indestructible institutional assemblage), but it is institution- ally and historically inseparable from the precedent and contemporaneous structures of large-scale racist state violence. Asserting the above as part of the core analytical framework of the pedagogical structure can greatly enable a discussion of abolitionist possibility that thinks of the critical dialogue as a necessary continuation of long historical struggles against land conquest, slavery, racial colonialism, and imperialist war. is also means that our discussions take place within a longer temporal community with those liberation struggles, such that we are neither “crazy” nor “isolated.” I have seen students and teachers speak radical truth to power under di cult and vulnerable circumstances based on this understanding that they are part of a historical record. I have had little trouble “convincing” most students—across distinctions of race, class, gender, age, sexuality, and geography—of the gravity and emergency of our historical moment. It is the analytical, political, and practical move toward an abolitionist positionality that is (perhaps predictably) far more challenging. is is in part due to the fraudulent and stubborn default position of centrist-to-progressive liberalism/reformism (including assertions of “civil” and “human” rights) as the only feasible or legible response to reactionary, violent, racist forms of state power. Perhaps more troublesome, however, is that this resistance to engaging with abolitionist praxis seems to also derive from a deep and broad epistemological and cultural disciplining of the political imagination that makes liberationist dreams unspeakable. is disciplining is most overtly produced through hegemonic state and cultural apparatuses and their representatives (including elected officials, popular political pundits and public intellectuals, schools, family units, religious institutions, etc.), but is also compounded through the pragmatic imperatives of many liberal and progressive nonprofit organizations and social movements that reproduce the political limitations of the nonprofit industrial complex.22 In this context, the liberationist historical identifications hailed by an abolitionist social imagination also require that such repression of political-intellectual imagination be fought, demystified, and displaced. Perhaps, then, there is no viable or defensible pedagogical position other than an abolitionist one. To live and work, learn and teach, and survive and thrive in a time defined by the capacity and political willingness to eliminate and neutralize populations through a culturally valorized, state sanctioned nexus of institutional violence, is to better understand why abolitionist praxis in this historical moment is primarily pedagogical, within and against the “system” in which it occurs. While it is conceivable that in future moments, abolitionist praxis can focus more centrally on matters of (creating and not sim- ply opposing) public policy, infrastructure building, and economic reorganization, the present moment clearly demands a convening of radical pedagogical energies that can build the collective human power, epistemic and knowledge apparatuses, and material sites of learning that are the precondition of authentic and liberatory social transformations. The prison regime is the institutionalization and systemic expansion of massive human misery. It is the production of bodily and psychic disarticulation on multiple scales, across different physiological capacities. The prison industrial complex is, in its logic of organization and its production of common sense, at least proto-genocidal. Finally, the prison regime is inseparable from—that is, present in—the schooling regime in which teachers are entangled. Prison is not simply a place to which one is displaced and where one’s physiological being is disarticulated, at the rule and whim of the state and its designated representatives (police, parole officers, school teachers). The prison regime is the assumptive premise of classroom teaching generally. While many of us must live in labored denial of this fact in order to teach as we must about “American democracy,” “freedom,” and “(civil) rights,” there are opportune moments in which it is useful to come clean: the vast majority of what occurs in U.S. classrooms—from preschool to graduate school—cannot accommodate the bare truth of the proto-genocidal prison regime as a violent ordering of the world, a primary component of civil society/school, and a material presence in our everyday teaching acts. As teachers, we are institutionally hailed to the service of genocide management, in which our pedagogical labor is variously engaged in mitigating, valorizing, critiquing, redeeming, justifying, lamenting, and otherwise reproducing or tolerating the profound and systemic violence of the global-historical U.S. nation building project. As “radical” teachers, we are politically hailed to betray genocide management in order to embrace the urgent challenge of genocide abolition. The short-term survival of those populations rendered most immediately vulnerable to the mundane and spectacular violence of this system, and the long-term survival of most of the planet’s human population (particularly those descended from survivors of enslavement, colonization, conquest, and economic exploitation), is significantly dependent on our willingness to embrace this form of pedagogical audacity.

#### Our heuristic means we learn about the State without being it. Our framework teaches contingent, but engaged, middle grounds. No State pessimism or optimism bias for extreme Alts.

Zanotti ’14 Dr. Laura Zanotti is an Associate Professor of Political Science at Virginia Tech.  Her research and teaching include critical political theory as well as international organizations, UN peacekeeping, democratization and the role of NGOs in post-conflict governance.“ Governmentality, Ontology, Methodology: Re-thinking Political Agency in the Global World” – Alternatives: Global, Local, Political – vol 38(4):p. 288-304,. A little unclear if this is late 2013 or early 2014 – The Stated “Version of Record” is Feb 20, 2014, but was originally published online on December 30th, 2013. Obtained via Sage Database.  KAE bracketed for grammar

By questioning substantialist representations of power and subjects, inquiries on the possibilities of political agency are reframed in a way that focuses on power and subjects’ relational character and the contingent processes of their (trans)formation in the context of agonic relations. Options for resistance to governmental scripts are not limited to ‘‘rejection,’’ ‘‘revolution,’’ or ‘‘dispossession’’ to regain a pristine ‘‘freedom from all constraints’’ or an immanent ideal social order. [Resistance to governmental scripts] is found instead in multifarious and contingent struggles that are constituted within the scripts of governmental rationalities and at the same time exceed and transform them. This approach questions oversimplifications of the complexities of liberal political rationalities and of their interactions with non-liberal political players and nurtures a radical skepticism about identifying universally good or bad actors or abstract solutions to political problems. International power interacts in complex ways with diverse political spaces and within these spaces it is appropriated, hybridized, redescribed, hijacked, and tinkered with. Governmentality as a heuristic focuses on performing complex diagnostics of events. It invites historically situated explorations and careful differentiations rather than overarching demonizations of ‘‘power,’’ romanticizations of the ‘‘rebel’’ or the ‘‘the local.’’ More broadly, theoretical formulations that conceive the subject in non-substantialist terms and focus on processes of subjectification, on the ambiguity of power discourses, and on hybridization as the terrain for political transformation, open ways for reconsidering political agency beyond the dichotomy of oppression/rebellion. These alternative formulations also foster an ethics of political engagement, to be continuously taken up through plural and uncertain practices, that demand continuous attention to ‘‘what happens’’ instead of fixations on ‘‘what ought to be.” Such ethics of engagement would not await the revolution to come or hope for a pristine ‘‘freedom’’ to be regained. Instead, it would constantly attempt to twist the working of power by playing with whatever cards are available and would require intense processes of reflexivity on the consequences of political choices. To conclude with a famous phrase by Michel Foucault ‘‘my point is not that everything is bad, but that everything is dangerous, which is not exactly the same as bad.

\If everything is dangerous, then we always have something to do. So my position leads not to apathy but to hyper- and pessimistic activism.

# Frontlines

## A2 Ban CP

#### Perm do the aff then the CP. Aff forces us to communicate with this violence whereas bans just homogenizes the problems. Jacobs is a net benefit, our interrogation forces us to discuss the violence in a way that

## A2 K alts – reject the state

#### Extend Zanotti 14; heuristic of the aff is preferable because it questions the substantial representations of power in the state. Leftist critiques ignore any possibility for activism or political change only replicating the problems.

## A2 antiblackness k

#### Arrests are shadowed by gendered and racial violence; black women are subjected to petty arrest at a higher rate than any other group and victimized by assault in the process

Woodridge 12 [Invisible betrayal police violence and the rapes of black women in the united states](https://www.lvcriminaldefense.com/invisible-betrayal-police-violence-and-the-rapes-of-black-women-in-the-united-states/) admin Jan 5,2012/ https://www.lvcriminaldefense.com/invisible-betrayal-police-violence-and-the-rapes-of-black-women-in-the-united-states/ DOA 11/4/16 KE

Even the American government has failed. The government has never collected statistics — that meant anything — about Black female victims of police brutality. If a case fails to draw media attention, police have no duty to report their misbehavior to an outside agency. Internal investigations often “fail to find” the officers culpable — no matter what crime they may have done. Because of a combination of sexism and a version in white American culture to recognizing that Black women can be, victimized leaves another myth: only Black men are at risk. What Police Do You Call on the Police? In Oklahoma, Daniel Holtzclaw was sentenced to 263 years in prison. Holtzclaw sexually assaulted 18 women — while in uniform and on duty. After the initial news stories had appeared, the case evaporated from memory and was consumed by movements like #BlackLivesMatter. Holtzclaw, 28, was an Oklahoma City cop. He was also a sexual predator and his victims ranged from 17 to 57, and all but one were black females. Selected because they were black and poor, the perpetrator thought no one would care. He was wrong. Forty-eight hours after the jury began deliberating the city experienced an increasing unease about the likelihood of a not-guilty decision. Some of Holtzclaw’s victims testified that the officer violated them in their own homes — while wearing his uniform. One woman said that Holtzclaw ran her name and came across an active [warrant](https://www.lvcriminaldefense.com/nevada-criminal-process/procedure-in-criminal-cases/indictment-and-information/warrants-and-summonses/). He took her to an empty school and raped her. Another victim said he forced to perform sex acts along the roadside. Another was sexually attacked while still handcuffed to a hospital bed. The youngest victim, a 17-year old who was raped on her mother’s front porch asked the packed courtroom: “What sort of police do you call on the police?” The Power of The State Stands Behind Law Enforcement — Too Often Video makes it easier to focus on law enforcement’s use of weapons images of shootings make news and provoke a public response. Despite that, there are videos of cops bashing women like Marlene Pinnock and pulling women like Denise Stewart, naked and exposed, from their homes. Google “copy beats woman” and dozens of stories and images show up. Although not all the victims are black, they frequently are people of color and often disabled, mentally ill or pregnant. They are not a threat to an officer armed with a gun and backed by the power of the state. Imagine what the national response wold be if a cop sexually assaulted 12 white, middle-class women and one underage girl — while on duty. Stop for a moment and think deeply about that. Too many people cannot imagine being in the same shoes as a Black female. We can’t see ourselves — or our daughters, our sisters or our mothers — living under the watchful eyes of the police. We can’t image what its like to have no voice, and we can’t imagine ourselves black, poor and powerless. Holtzclaw — and other cops like him — knew white America wouldn’t care. That’s why they chose the victims they did.

## A2 black nihilism

### Perms

#### Perm do the aff then the K. Deconstructing the prison industrial complex has to come first or be a proactive solution to have spillover to other conditions of oppression that’s the warrant in Jacob’s 04.

#### Perm do the aff and all non-competitive parts of the alt; 1) Rodriguez proves why this pedagogical discussion is a necessary tool to other critical impacts, 2) impacts in part 1 & 2 articulate why the aff is an important step.

#### Perm do both; the aff isn’t operating inside of a pedagogy of hope but rather understands the pessimistic ontological subject but acknowledges the greater structures of power that articulate it.

**On case**

#### Policy focus key to combat racism---anti-blackness was created by policy and can only be destroyed by policy

Bouie 13 Jamelle Bouie 13, staff writer at The American Prospect, Making and Dismantling Racism, [http://prospect.org/...mantling-racism](http://prospect.org/article/making-and-dismantling-racism)

Over at The Atlantic, Ta-Nehisi Coates has been exploring the intersection of race and public policy, with a focus on white supremacy as a driving force in political decisions at all levels of government. This has led him to two conclusions: First, that anti-black racism as we understand it is a **creation of explicit policy choices—**the decision to exclude, marginalize, and stigmatize Africans and their descendants has as much to do with racial prejudice as does any intrinsic tribalism. And second, that it's possible to **dismantle thisprejudice using public policy**. Here is Coates in his own words: Last night I had the luxury of sitting and talking with the brilliant historian Barbara Fields. One point she makes that very few Americans understand is that racism is a creation. You read Edmund Morgan’s work and actually see racism being inscribed in the law and the country changing as a result. If we accept that racism is a creation, then we must then accept that it can be destroyed. And if we accept that it can be destroyed, we must then accept that it can be destroyed by us and that it likely must be destroyed by methods kin to creation. *Racism was created by policy. It will likely only be ultimately destroyed by policy.* Over at his blog, Andrew Sullivan offers a reply: I don’t believe the law created racism any more than it can create lust or greed or envy or hatred. It can encourage or mitigate these profound aspects of human psychology – it can create racist structures as in the Jim Crow South or Greater Israel. But it can no more end these things that it can create them. A complementary strategy is finding ways for the targets of such hatred to become inured to them, to let the slurs sting less until they sting not at all. Not easy. But a more manageable goal than TNC’s utopianism. I can appreciate the point Sullivan is making, but I'm not sure it's relevant to Coates' argument. It is absolutely true that "Group loyalty is deep in our DNA," as Sullivan writes. And if you define racism as an overly aggressive form of group loyalty—basically just prejudice—then Sullivan is right to throw water on the idea that the law can "create racism any more than it can create lust or greed or envy or hatred." But Coates is making a more precise claim: That**there's nothing natural about the black/white divide that has defined American history**. White Europeans had contact with black Africans well before the trans-Atlantic slave trade **without the emergence of an anti-black racism**. It took particular choices made by particular people—in this case, plantation owners in colonial Virginia—tomake black skin a stigma, to make the "one drop rule" a defining feature of American life for more than a hundred years. By enslaving African indentured servants and allowing their white counterparts a chance for upward mobility, colonial landowners began the process that would **make white supremacy the ideology of America**. The position of slavery generated a stigma that then justified continued enslavement—blacks are lowly, therefore we must keep them as slaves. Slavery (and later, Jim Crow) **wasn't built to reflect racism as much as it was built in tandem with it**. And later policy, in the late 19th and 20th centuries, further entrenched white supremacist attitudes. Block black people from owning homes, and they're forced to reside in crowded slums. Onlookers then use the reality of slums to deny homeownership to blacks, under the view that they're unfit for suburbs. In other words, create a prohibition preventing a marginalized group from engaging in socially sanctioned behavior—owning a home, getting married—and then blame them for the adverse consequences. Indeed, in arguing for gay marriage and responding to conservative critics, Sullivan has taken note of this exact dynamic. Here he is twelve years ago, in a column for The New Republic that builds on earlier ideas: Gay men--not because they're gay but because they are men in an all-male subculture--are almost certainly more sexually active with more partners than most straight men. (Straight men would be far more promiscuous, I think, if they could get away with it the way gay guys can.) Many gay men value this sexual freedom more than the stresses and strains of monogamous marriage (and I don't blame them). But this is not true of all gay men. Many actually yearn for social stability, for anchors for their relationships, for the family support and financial security that come with marriage. To deny this is surely to engage in the "soft bigotry of low expectations." They may be a minority at the moment. But with legal marriage, their numbers would surely grow. And they would function as emblems in gay culture of a sexual life linked to stability and love. [Emphasis added] What else is this but a variation on Coates' core argument, that society can create stigmas by using *law* to force particular kinds of behavior? Insofar as gay men were viewed as unusually promiscuous, it almost certainly had something to do with the fact that society refused to recognize their humanity and sanction their relationships. The absence of any institution to mediate love and desire encouraged behavior that led this same culture to say "these people are too degenerate to participate in this institution." If the prohibition against gay marriage helped create an anti-gay stigma, then lifting it—as we've seen over the last decade—has helped destroy it. There's no reason racism can't work the same way.

#### The coalitional strategy of combatting the prison industrial complex is a prior question to handling the ontologies of black existence. We dismantle the structure, you criticize a symptom.

#### Uniting different coalitions is necessary to overcome white supremacy---the alt recreates white “divide and conquer”

hooks 3 bell hooks 3, social critic extraordinaire, “Beyond Black Only: Bonding Beyond Race”, http://prince.org/msg/105/50299?pr

African Americans have been at the forefront of the struggle to end racism and white supremacy in the United States since individual free black immigrants and the larger body of enslaved blacks first landed here. Even though much of that struggle has been directly concerned with the plight of black people, all gains received from civil rights work have had tremendous positive impact on the social status of all non-white groups in this country. Bonding between enslaved Africans, free Africans, and Native Americans is well documented. Freedom fighters from all groups (and certainly there were many traitors in all three groups who were co-opted by rewards given by the white power structure) understood the importance of solidarity-of struggling against the common enemy, white supremacy. The enemy was not white people. It was white supremacy. ¶ Organic freedom fighters, both Native and African Americans, had no difficulty building coalitions with those white folks who wanted to work for the freedom of everyone. Those early models of coalition building in the interest of dismantling white supremacy are often forgotten. Much has happened to obscure that history. The construction of reservations (many of which were and are located in areas where there are not large populations of black people) isolated communities of Native Americans from black liberation struggle. And as time passed both groups began to view one another through Eurocentric stereotypes, internalizing white racist assumptions about the other. Those early coalitions were not maintained. Indeed the bonds between African Americans struggling to resist racist domination, and all other people of color in this society who suffer from the same system, continue to be fragile, even as we all remain untied by ties, however frayed and weakened, forged in shared anti-racist struggle. ¶ Collectively, within the United States people of color strengthen our capacity to resist white supremacy when we build coalitions. Since white supremacy emerged here within the context of colonization, the conquering and conquest of Native Americans, early on it was obvious that Native and African Americans could best preserve their cultures by resisting from a standpoint of political solidarity. The concrete practice of solidarity between the two groups has been eroded by the divide-and-conquer tactics of racist white power and by the complicity of both groups. Native American artist and activist of the Cherokee people Jimmie Durham, in his collection of essays A Certain Lack of Coherence, talks about the 1960’s as a time when folks tried to regenerate that spirit of coalition: “In the 1960’s and ‘70’s American Indian, African American and Puerto Rican activists said, as loudly as they could, “This country is founded on the genocide of one people and the enslavement of another.” This statement, hardly arguable, was not much taken up by white activists.” As time passed, it was rarely taken up by anyone. Instead the fear that one’s specific group might receive more attention has led to greater nationalism, the showing of concern for one’s racial or ethnic plight without linking that concern to the plight of other non-white groups and their struggles for liberation. ¶ Bonds of solidarity between people of color are continuously ruptured by our complicity with white racism. Similarly, white immigrants to the United States, both past and present, establish their right to citizenship within white supremacist society by asserting it in daily life through acts of discrimination and assault that register their contempt for and disregard of black people and darker-skinned immigrants mimic this racist behavior in their interactions with black folks. In her editorial “On the Backs of Blacks” published in a recent special issue of TIME magazine Toni Morrison discusses the way white supremacy is reinscribed again and again as immigrants seek assimilation: ¶ All immigrants fight for jobs and space, and who is there to fight but those who have both? As in the fishing ground struggle between Texas and Vietnamese shrimpers, they displace what and whom they can…In race talk the move into mainstream America always means buying into the notion of American blacks as the real aliens. Whatever the ethnicity or nationality of the immigrant, his nemesis is understood to be African American…So addictive is this ploy that the fact of blackness has been abandoned for the theory of blackness. It doesn’t matter anymore what shade the newcomer’s skin is. A hostile posture toward resident blacks must be struck at the Americanizing door. ¶ Often people of color, both those who are citizens and those who are recent immigrants, hold black people responsible for the hostility they encounter from whites. It is as though they see blacks as acting in a manner that makes things harder for everybody else. This type of scapegoating is the mark of the colonized sensibility which always blames those victimized rather than targeting structures of domination. ¶ Just as many white Americans deny both the prevalence of racism in the United States and the role they play in perpetuating and maintaining white supremacy, non-white, non-black groups, Native, Asian, Hispanic Americans, all deny their investment in anti-black sentiment even as they consistently seek to distance themselves from blackness so that they will not be seen as residing at the bottom of this society’s totem pole, in the category reserved for the most despised group. Such jockeying for white approval and reward obscures the way allegiance to the existing social structure undermines the social welfare of all people of color. White supremacist power is always weakened when people of color bond across differences of culture, ethnicity, and race. It is always strengthened when we act as though there is no continuity and overlap in the patterns of exploitation and oppression that affect all of our lives. ¶ To ensure that political bonding to challenge and change white supremacy will not be cultivated among diverse groups of people of color, white ruling groups pit us against one another in a no-win game of “who will get the prize for model minority today.” They compare and contrast, affix labels like “model minority,” define boundaries, and we fall into line. Those rewards coupled with internalized racist assumptions lead non-black people of color to deny the way racism victimizes them as they actively work to disassociate themselves from black people. This will to disassociate is a gesture of racism. ¶ Even though progressive people of color consistently critique these standpoints, we have yet to build a contemporary mass movement to challenge white supremacy that would draw us together. Without an organized collective struggle that consistently reminds us of our common concerns, people of color forget. Sadly forgetting common concerns sets the stage for competing concerns. Working within the system of white supremacy, non-black people of color often feel as though they must compete with black folks to receive white attention. Some are even angry at what they wrongly perceive as a greater concern on the part of white of the dominant culture for the pain of black people. Rather than seeing the attention black people receive as linked to the gravity of our situation and the intensity of our resistance, they want to make it a sign of white generosity and concern. Such thinking is absurd. If white folks were genuinely concerned about black pain, they would challenge racism, not turn the spotlight on our collective pain in ways that further suggest that we are inferior. Andrew Hacker makes it clear in Two Nations that the vast majority of white Americans believe that “members of the black race represent an inferior strain of the human species.” He adds: “In this view Africans-and Americans who trace their origins to that continent-are seen as languishing at a lower evolutionary level than members of other races.” Non-black people of color often do not approach white attention to black issues by critically interrogating how those issues are presented and whose interests the representations ultimately serve. Rather than engaging in a competition that sees blacks as winning more goodies from the white system than other groups, non-black people of color who identify with black resistance struggle recognize the danger of such thinking and repudiate it. They are politically astute enough to challenge a rhetoric of resistance that is based on competition rather than a capacity on the part of non-black groups to identify with whatever progress blacks make as being a positive sign for everyone. Until non-black people of color define their citizenship via commitment to a democratic vision of racial justice rather than investing in the dehumanization and oppression of black people, they will always act as mediators, keeping black people in check for the ruling white majority. Until racist anti-black sentiments are let go by other people of color, especially immigrants, and complain that these groups are receiving too much attention, they undermine freedom struggle. When this happens people of color war all acting in complicity with existing exploitative and oppressive structures. ¶ As more people of color raise our consciousness and refuse to be pitted against one another, the forces of neo-colonial white supremacist domination must work harder to divide and conquer. The most recent effort to undermine progressive bonding between people of color is the institutionalization of “multiculturalism”. Positively, multiculturalism is presented as a corrective to a Eurocentric vision of model citizenship wherein white middle-class ideals are presented as the norm. Yet this positive intervention is undermined by visions of multiculturalism that suggest everyone should live with and identify with their own self contained group. If white supremacist capitalist patriarchy is unchanged then multiculturalism within that context can only become a breeding ground for narrow nationalism, fundamentalism, identity politics, and cultural, racial, and ethnic separatism. Each separate group will then feel that it must protect its own interests by keeping outsiders at bay, for the group will always appear vulnerable, its power and identity sustained by exclusivity. When people of color think this way, white supremacy remains intact. For even though demographics in the United States would suggest that in the future the nation will be more populated by people of color, and whites will no longer be the majority group, numerical presence will in no way alter white supremacy if there is no collective organizing, no efforts to build coalitions that cross boundaries. Already, the white Christian Right is targeting large populations of people of color to ensure that the fundamentalist values they want this nation to uphold and represent will determine the attitudes and values of these groups. The role Eurocentric Christianity has played in teaching non-white folks Western metaphysical dualism, the ideology that under girds binary notion of superior/inferior, good/bad, white/black, cannot be ignored. While progressive organizations are having difficulty reaching wider audiences, the white-dominated Christian Right organizes outreach programs that acknowledge diversity and have considerable influence. Just as the white-dominated Christian church in the U.S. once relied on biblical references to justify racist domination and discrimination, it now deploys a rhetoric of multiculturalism to invite non-white people to believe that racism can be overcome through a shared fundamentalist encounter. Every contemporary fundamentalist white male-dominated religious cult in the U.S. has a diverse congregation. People of color have flocked to these organizations because they have felt them to be places where racism does not exist, where they are not judged on the basis of skin color. While the white-dominated mass media focus critical attention on black religious fundamentalist groups like the Nation of Islam, and in particular Louis Farrakhan, little critique is made of white Christian fundamentalist outreach to black people and other people of color. Black Islamic fundamentalism shares with the white Christian Right support for coercive hierarchy, fascism, and a belief that some groups are inferior and others superior, along with a host of other similarities. Irrespective of the standpoint, religious fundamentalism brainwashes individuals not to think critically or see radical politicization as a means of transforming their lives. When people of color immerse themselves in religious fundamentalism, no meaningful challenge and critique of white supremacy can surface. Participation in a radical multiculturalism in any form is discouraged by religious fundamentalism. ¶ Progressive multiculturalism that encourages and promotes coalition building between people of color threatens to disrupt white supremacist organization of us all into competing camps. However, this vision of multiculturalism is continually undermined by greed, one group wanting rewards for itself even at the expense of other groups. It is this perversion of solidarity the authors of Night Vision address when they assert: “While there are different nationalities, races and genders in the U.S., the supposedly different cultures in multiculturalism don’t like to admit what they have in common, the glue of it all-parasitism. Right now, there’s both anger among the oppressed and a milling around, edging up to the next step but uncertain what it is fully about, what is means. The key is the common need to break with parasitism.” A based identity politics of solidarity that embraces both a broad based identity politics which acknowledges specific cultural and ethnic legacies, histories, etc. as it simultaneously promotes a recognition of overlapping cultural traditions and values as well as an inclusive understanding of what is gained when people of color unite to resist white supremacy is the only way to ensure that multicultural democracy will become a reality.

#### Pessimism towards progressivism inverts the error and makes racism worse. This card rules:

Jones ’99 Richard Wyn Jones is at Cardiff University, where he is currently a Professor of Politics. Professor Wyn Jones is the former Director of the Institute of Welsh Politics and professor in critical security studies at Aberystwyth University. Security, Strategy, and Critical Theory – 1999. ISBN 1-55587-335-9 (hc. :alk. paper) ON-LINE ED.: Columbia International Affairs Online, Transcribed, proofread, and marked-up in HTML, September 1999.

An even more troubling feature of Adorno and Horkheimer’s analysis is the downplaying of individual responsibility that is implicit in their argument. If Auschwitz is the inevitable outcome of enlightenment, and if instrumental rationality is too powerful to resist, then can we expect an individual Nazi to act in a different fashion? In the hermetic society the individual is a mere cipher, and if this is the case, can any individual really be blamed for his or her behavior? These questions highlight an ethical lacuna at the heart of Dialectic of Enlightenment. Despite the obvious intentions of the authors, their analysis generates a logic that renders them unable to differentiate meaningfully between different actions in the political realm. If “nothing complicitous with this world can have any truth,” then surely everything that exists in the real world must be judged equally untrue or false. But if this is so, how are we to evaluate efforts at securing change in contemporary society?¶ Let us consider the ending of apartheid in South Africa. Although the citizens of that country cannot be adjudged to be free after the overthrow of the apartheid system, surely they are freer. Although the establishment of liberal democracy there offers no panacea, it is a better system than the totalitarian one that it has replaced. But although Adorno and Horkheimer as individuals would almost certainly have rejoiced in the downfall of the apartheid system, as theoreticians they seem to be unable to provide us with any grounds for favoring one particular set of social institutions over another. Here we have a bizarre inversion of the relativism to which contemporary poststructuralist approaches are prone. By arguing that there are no grounds to choose between different accounts of reality, poststructuralists are inevitably forced to accept that all accounts of a given reality are true. They can make no judgment on these claims that is not arbitrary (Norris 1992; Hunter and Wyn Jones 1995). Similarly, by arguing that everything in the world is equally false, Adorno and Horkheimer can make no judgment as to why we might prefer some forms of behavior and some set of practices over others.¶ Here the impasse into which the analysis of Dialectic of Enlightenment leads its authors stands in bold relief. The determinism and reductionism of their argument is ultimately paralyzing. It was, of course, Antonio Gramsci who popularized the injunction that all those intent on changing society should attempt to face the world with a combination of “pessimism of the intellect” and “optimism of the will.” This position has much to commend it given the propensity of radicals to view society with rose–tinted glasses. However, the limitations of this position are nowhere better illustrated than in Dialectic of Enlightenment, in which the pessimism is so thoroughgoing that it becomes absolutely debilitating. Any attempt to challenge the status quo already stands condemned as futile. The logical outcome of this attitude is resignation and passivity.¶ Adorno attempted to make a virtue of the detached attitude that he and Horkheimer adopted toward the political struggles of their own age by claiming: “If one is concerned to achieve what might be possible with human beings, it is extremely difficult to remain friendly towards real people.” However, considering that it is only “real people” who can bring about a better society, Adorno’s “complex form of misanthropy” ultimately leads only to quiescence (Wiggershaus 1994: 268). Thus, despite the clear similarities in the influences and interests of the founding fathers of critical theory and Gramsci, the resignatory passivity of the authors of Dialectic of Enlightenment led them to a position on political practice far more akin to that of Oswald Spengler or Arthur Schopenhauer than to that adopted by the Sardinian Marxist Gramsci, even as he languished in a fascist prison.¶ In view of the traditional Marxist emphasis on the unity of theory and practice, it is hardly surprising that Adorno and Horkheimer’s rejection of any attempt to orient their work toward political activity led to bitter criticism from other radical intellectuals. Perhaps the most famous such condemnation was that of Lukács, who acidly commented that the members of the Frankfurt School had taken up residence in the “Grand Hotel Abyss.” The inhabitants of this institution enjoyed all the comforts of the bourgeois lifestyle while fatalistically surveying the wreckage of life beyond its doors. Whereas Lukács’s own apologias for Stalinism point to the dangers of subordinating theoretical activity to the exigencies of day–to–day practical politics, Adorno and Horkheimer sunder theory and political practice completely, impoverishing the theoretical activity itself. Their stance leads to an aridity and scholasticism ill suited to any social theory that aspires to real–world relevance.¶ Furthermore, the critical theorist’s position on political practice is based on an underestimation of the potential for progressive change that exists even in the most administered societies. It is instructive to contrast the attitude of Adorno and Horkheimer with that of Raymond Williams, who delivers the following broadside against “high culture Marxists” such as the members of the Frankfurt School:¶ When the Marxists say that we live in a dying culture, and that the masses are ignorant, I have to ask them... where on earth they have lived. A dying culture, and ignorant masses, are not what I have known and see. (R. Williams 1989: 8)¶ As I will discuss in Chapter 6, the evidence suggests that Williams is closer to the truth. People acting both individually and collectively, through social movements and state institutions, can actually influence the world around them in a progressive direction. Adorno and Horkheimer’s pessimism is unwarranted.

## A2 - Anti-Blackness

#### 1. Zanotti no links – state as a heuristic doesn’t trigger your impacts

#### 2. No Alt solvency, even if blackness is ontologically, there not reason embracing blackness solves. Hold the negative accountable for articulating how embracing blackness untangle the ontological structure civil society has created

#### 3. Sexton talks about why black people should embrace their blackness, theres no reason that any of us in this round can perform the alternative

#### 4. Turn, his alternative of embracing blackness is just another link. This renders blackness as a fungible commodity that you can just become in debate round to win ballot.

**3) Simulation allows us to more effectively influence state policy AND is key to agency – studies prove**

Eijkman 12[Henk, visiting fellow at the University of New South Wales at the Australian Defence Force Academy and is Visiting Professor of Academic Development, Annasaheb Dange College of Engineering and Technology in India, has taught at various institutions in the social sciences and his work as an adult learning specialist has taken him to South Africa, Malaysia, Palestine, and India, “The role of simulations in the authentic learning for national security policy development: Implications for Practice,” http://nsc.anu.edu.au/test/documents/Sims\_in\_authentic\_learning\_report.pdf]

However, whether as an approach to learning, innovation, persuasion or culture shift, policy simulations derive their power from two central features: their combination of simulation and gaming (Geurts et al. 2007). 1. The simulation element: the **unique combination of simulation with role-playing**. The unique simulation/role-play mix enables participants to create **possible futures** relevant to the topic being studied. This is diametrically opposed to the more traditional, teacher-centric approaches in which a future is produced for them. In policy simulations, possible futures are much more than an object of tabletop discussion and verbal speculation. ‘**No other technique** allows a group of participants to engage in collective action in a safe environment to create and analyse the futures they want to explore’ (Geurts et al. 2007: 536). 2. **The game element:** the interactive and tailor-made modelling and design of the policy game. The actual run of the policy simulation is only one step, though a most important and visible one, in a collective process of investigation, communication, and evaluation of performance. In the context of a post-graduate course in public policy development, for example, a policy simulation is a dedicated game constructed in collaboration with practitioners to achieve a **high level of proficiency** in relevant aspects of the policy development process. To drill down to a level of finer detail, **policy development simulations**—as forms of interactive or participatory modelling— are particularly effective in developing participant knowledge and skills in the five key areas of the policy development process (and success criteria), namely: Complexity, Communication, Creativity, Consensus, and Commitment to action (‘the five Cs’). The capacity to provide effective learning support in these five categories has proved to be particularly helpful in strategic decision-making (Geurts et al. 2007). Annexure 2.5 contains a detailed description, in table format, of the synopsis below.

#### 4) Perm do both – double bind – either the alt can overcome our one use of the state, or it is so ingrained that it won’t be overcome anyway.

#### 5) Perm do both – inclusion of pragmatic, reformist coalitions is key to political effectiveness

Winant, 97 – Howard Winant, Professor of Sociology and Director of the Center for New racial Studies at UC Santa Barbara, September-October 1997, “Behind Blue Eyes: Contemporary White Racial Politics,” online: http://www.soc.ucsb.edu/faculty/winant/whitness.html

Although the differences and indeed the hostility -- between the neoliberal and abolitionist projects, between the reform-oriented and radical conceptions of whiteness -- are quite severe, we consider it vital that adherents of each project recognize that they hold part of the key to challenging white supremacy in the contemporary US, and that their counterpart project holds the other part of the key. Neoliberals rightfully argue that a pragmatic approach to transracial politics is vital if the momentum of racial reaction is to be halted or reversed. Abolitionists properly emphasize challenging the ongoing commitment to white supremacy on the part of many whites. Both of these positions need to draw on each other, not only in strategic terms, but in theoretical ones as well. The recognition that racial identities -- all racial identities, including whiteness -- have become implacably dualistic, could be far more liberating on the left than it has thus far been. For neoliberals, it could permit and indeed justify an acceptance of race-consciousness and even nationalism among racially-defined minorities as a necessary but partial response to disenfranchisement, disempowerment, and superexploitation. There is no inherent reason why such a political position could not coexist with a strategic awareness of the need for **strong**, class-conscious, **transracial coalitions**. We have seen many such examples in the past: in the anti-slavery movement, the communist movement of the 1930s (Kelley 1994), and in the 1988 presidential bid of Jesse Jackson, to name but a few. This is not to say that all would be peace and harmony if such alliances could come more permanently into being. But there is no excuse for not attempting to find the pragmatic "common ground" necessary to create them. Abolitionists could also benefit from a recognition that on a pragmatic basis, whites can ally with racially-defined minorities without renouncing their whiteness. If they truly agree that race is a socially constructed concept, as they claim, abolitionists should also be able to recognize that racial identities are not either-or matters, not closed concepts that must be upheld in a reactionary fashion or disavowed in a comprehensive act of renunciation. To use a postmodern language I dislike: racial identities are deeply "hybridized"; they are not "sutured," but remain open to rearticulation. "To be white in America is to be very black. If you don't know how black you are, you don't know how American you are" (Thompson 1995, 429).v

**6) Perm-Endorse the ideology of the K but pragmatically vote for me- coopts the Kritik’s benefits and helps peoples suffering in the squo**

#### 7) Ballot currency DA -- appeals to the ballot to create social change trade off with the root causes of oppression – they cause a digression into sub factions that shatter coalition politics – the negative creates rivalry politics and abdicates the judge of personal responsibility by making them think they did something productive to combat racism which prevents out of round change

**8) Calling for a violent revolution won’t convince many liberals, much less all the conservatives. The alternative fails**

#### 9) Ontology not first – causes violent inaction while we wait.

Jarvis 2K (D.S.L., Lecturer n Government - U of Sydney, INTERNATIONAL RELATIONS AND THE CHALLENGE OF POSTMODERNISM, p. 128-9)

Certainly it is right and proper **that we** ponder the depths of our theoretical imaginations, **engage in** epistemological and ontological debate, and analyze the sociology of our knowledge. **But to suppose** that **this is the only task** of international theory, **let alone the most important one, smacks of** intellectual elitism and displays a certain **contempt for** those who search for guidance in their **daily struggles** as actors in international politics. What does Ashley's project his deconstructive efforts, or valiant tight against positivism say to the truly marginalized, oppressed and destitute? **How does it help solve** the plight of the poor, the displaced refugees, the casualties of war, or the emigres of death squads? Does it in any way speak to those whose actions and thoughts comprise the policy and practice of international relations? On all these questions one must answer no. This is not to say, of course, that all theory should be judged by its technical rarionality and problem-solving capacity as Ashley forcefully argues. But to suppose that problem-solving technical theory is not necessary—or is in some, way bad—is a contemptuous position that abrogates any hope of solving some of the nightmarish realities that millions confront daily. Holsti argues, we need ask of these theorists and these theories tne ultimate question, “So what?” to what purpose do they deconstruct problematize, destabilize, undermine, ridicule, and belittle modernist and rationalist approaches? Does this get us any further, make the world any better, or enhance the human condition? In what sense can this "debate toward [a] bottomless pit of epistemology and metaphysics" be judged pertinent relevant helpful, or cogent to anyone other than those foolish enough to be scholastically excited by abstract and recondite debate.

#### 10) It’s not enough for their alternative to have a GOAL – they have to have a MECHANISM to achieve it

Alastair Murray, Politics Department, University of Wales Swansea, Reconstructing Realism, 1997, p. 188-189

Ashley's critique thus boils down to a judgement as to the potentialities for change in the current situation and how best to exploit them. It amounts to the difference between a progressive philosophy which regards systemic transformation as imminent, and one which remains more sceptical. In `Political realism and human interests', for instance, realism's practical strategy ultimately appears illegitimate to Ashley only because his own agenda is emancipatory in nature. His disagreement with realism depends on a highly contestable claim ‑ based on Herz's argument that, with the development of global threats, the conditions which might produce some universal consensus have arisen ‑ that its `impossibility theorem' is empirically problematic, that a universal consensus is achievable, and that its practical strategy is obstructing its realisation. In much the same way, in ‘The poverty of neorealism’, realism's practical strategy is illegitimate only because Ashley's agenda is inclusionary. His central disagreement with realism arises out of his belief that its strategy reproduces a world order organised around sovereign states, preventing exploration of the indeterminate number of ‑ potentially less exclusionary ‑ alternative world orders. Realists, however, would be unlikely to be troubled by such charges. Ashley needs to do rather more than merely assert that the development of global threats will produce some universal consensus, or that any number of less exclusionary world orders are possible, to convince them. A universal threat does not imply a universal consensus, merely the existence of a universal threat faced by particularistic actors. And the assertion that indeterminate numbers of potentially less exclusionary orders exist carries little weight unless we can specify exactly what these alternatives are and just how they might be achieved. As such, realists would seem to be justified in regarding such potentialities as currently unrealisable ideals and in seeking a more proximate good in the fostering of mutual understanding and, in particular, of a stable balance of power. Despite the adverse side‑effects that such a balance of power implies, it at least offers us something tangible rather than ephemeral promises lacking a shred of support. Ultimately, Ashley's demand that a new, critical approach be adopted in order to free us from the grip of such 'false' conceptions depends upon ideas about the prospects for the development of a universal consensus which are little more than wishful thinking, and ideas about the existence of potentially less exclusionary orders which are little more than mere assertion. Hence his attempts, in 'Political realism and human interests', to conceal these ideas from view by claiming that the technical base of realism serves only to identify, and yet not to reform, the practical, and then, in 'The poverty of neorealism', by removing the technical from investigation altogether by an exclusive reliance on a problem of hermeneutic circularity. In the final analysis, then, Ashley's post‑structuralist approach boils down to little more than a critique ‑-and, at that, a critique which fails. It is predicated on the assumption that the constraints upon us are simply restrictive knowledge practices, such that it presumes that the entirety of the solution to our problems is little more than the removal of such false ways of thinking. It offers nothing by way of alternative ‑ no strategies, no proximate goals, indeed, little by way of goals at all. If, in constructivism, the progressive purpose leads to strategies divorced from an awareness of the problems confronting transformatory efforts, and, in critical theoretical perspectives, it produces strategies divorced from international politics in their entirety, in post‑structuralism it generates a complete absence of strategies altogether. Critique serves to fill the void, yet this critique ultimately proves unsustainable. With its defeat, post-structuralism is left with nothing. Once one peels away the layers of misconstruction, it simply fades away. If realism is, as Ashley puts it, 'a tradition forever immersed in the expectation of political tragedy', it at least offers us a concrete vision of objectives and ways in which to achieve them which his own position, forever immersed in the expectation of deliverance, is manifestly unable to provide."

#### 11) The alternative’s criticism of structures does not translate into material change.

Mwajeh 5 ( Z Al, Indiana University of Pennsylvania The School of Graduate Studies and Research Department of English, CRITIQUE OF POSTMODERN ETHICS OF ALTERITY VERSUS EMBODIED (MUSLIM) OTHERS, <https://dspace.iup.edu/bitstream/handle/2069/23/Ziad%20Al-Mwajeh.pdf?sequence=1>)

However, alterity-oriented postmodernism can be described as idealistic in a Platonic sense. Plato’s “Myth of the Cave” enacts a dialectical ascension or progress toward an ideal republic governed by reason. Plato’s world of matter is preceded and to some extent controlled by the world of ideas, or by the Logos. Postmodern alterity seems to submit to the Platonic idea-matter dialectics. Thus, the postmodernists critique metaphysical, linguistic, or symbolic superstructural systems as if fixing the idea translates into fixing praxis. One implicit assumption is that knowledge translates into ethics. In other words, it seems that postmodernists do not only consider man ‘good,’ but also assume that the moment one is enlightened about the good, he/she will automatically choose it by virtue of its being good. I am not particularly opposed to such idealism. On the contrary, the problem with such idealism is that it underestimates political and economic contexts, pressures, motivations, and even the desire for power regardless of the consequences, sometimes. Postmodern thought does not problematize the passage from metaphysics or the moment of knowledge into action. It seems that the moment we know that our metaphysical or epistemological foundations are other-unfriendly automatically translates into abandoning those ways in favor of more just arrangements such as alterity ethics. Thus, postmodernists retain Platonic residues whenever they assume that self-other enduring conflicts are primarily caused by ideational or metaphysical systems. They, too, become idealists whenever they do not problematize the assumption that the world of ideas precedes the world of matter—almost in a causal manner—or whenever they assume their automatic translatability as if fixing the philosophical or epistemological system would automatically fix the institutions and practices that stem from them. 3

#### 12) Broad Root cause args wrong.

Swanson ‘5 Jacinda Swanson is Assistant Professor of Political Science at Western. Michigan University – Theory, Culture & Society August 2005 vol. 22 no. 4 87-118 – DOI: 10.1177/0263276405054992 –The online version of this article can be found – http://tcs.sagepub.com/content/22/4/87

**It is** thus **misleading to suggest** that **social relations are ever solely economic**, political or cultural, **or that the cause**s **of** **and remedies for unjust social arrangements are singular** (see also Butler, 1997c: 273, 276; Young, 1997: 154–6; Sayer, 1999). Although Fraser insists on the thorough imbrication of culture and economics, her emphasis on the two categories of redistribution and recognition and on root causes undermines the more complex understanding she articulates elsewhere.6 Moreover, despite her commitment to perspectival dualism – and thus her rejection of substantive dualism and economism – in several instances Fraser describes the economy and capitalism in economically reductionist and determinist terms (2003: 53, 58, 214–18). For instance, although she correctly insists that capitalism and culture interact, she often appears to conceptualize capitalism and other economic activities as in themselves fundamentally economic practices that function independently of political and cultural processes, and, related, appears to conceive economic behavior/phenomena as devoid of values. To cite just a few examples, Fraser provides the following conceptualizations: ‘In this marketized zone, interaction is not directly regulated by patterns of cultural value. It is governed, rather by the functional interlacing of strategic imperatives, as individuals act to maximize self-interest’ (2003: 58); ‘system integration, in which interaction is coordinated by the functional interlacing of the unintended consequences of a myriad of individual strategies’; and ‘a quasi-objective, anonymous, impersonal market order that follows a logic of its own. This market order is culturally embedded, to be sure. But it is not directly governed by cultural schemas of evaluation’ (2003: 214). As the concept of overdetermination shows, ‘economic’ **pract**ices **themselves depend on specific (cultural) knowledge**s, values and discourses, as well as specific (political) rules and regulations (and vice versa). Values are therefore not confined to the cultural status order.7 In addition to discourses and knowledges, values, for example, constitute ideas and behavior related to business enterprise success and purposes, rational considerations and calculations, individual self-interest, appropriate and desirable objects of economic production and exchange, etc. (Amariglio and Ruccio, 1994; Watkins, 1998). The theoretical perspective I am advocating here thus urges both the multiplication of analytical categories and concrete empirical investigations of the numerous conditions of existence (located throughout society) of any unjust practice (see also Smith, 2001: 121). It consequently suggests that **overcoming any given form of oppression most likely will require transforming a** wide **range of cultural, economic and political practices.**

## A2 legalism:

### Aff takes out k:

#### Cross apply zanotti 14 – 1) justifies why our heuristic to function under the guise of the state is key to be able to resist it pragmatically 2) pessimism or optimism bias alts will continue to fail it their strife for resistance/reform, means aff has risk of solvency 3) conceded offense is reason why the aff is a necessary precondition to rejecting the legal system. If the aff proves that it has offense then it means the legal system is temporarily necessary.

#### Conceded offense comes from Scheper-Hughes and Bourgois ‘4 which proves that absent the aff the gendered violence continues to be faced with ignorance and is depoliticized & privatized. Means we must prefer slow violence before state-structured pessimism. Turns the k; their ignorance perpetuates the problem that the aff critiques.

#### Turn the k; they blanket over the problems promulgated in the aff. Universalizing legalism means they ignore the prison industrial complex which sustains itself. That’s the warrant in Rothenberg 15 which you can cross apply. Means they create ruse of solvency and error replication which turns k impacts.

### UV:

#### K is non unqiue; there is no reason why the specific use of limiting qualified immunity is enough to push the use of the legal system over the edge. A) the impacts already exist in the squo and B) no internal link means that aff outweighs on risk of offense.

### Perms:

#### Perm do the aff then the k; the aff proves multiple reasons why deconstructing the prison industrial complex is a necessary question to answer. The k only questions methods but not temporality, aff comes first then we can begin to do the alt.

#### Perm do both the aff and the alt; deconstructing the prison industrial complex is a pivotal part at weakening the legal system which means the aff helps solve.

#### Perm do the aff and all non-competitive parts of the alt. I.e. we can deconstruct the prison industrial complex by limiting qualified immunity AND resist legalism in all other instances; the aff proves inherent harms.

#### Also either the perms solve or the alt isn’t strong enough to mitigate the impacts in the k which gives credence to an aff ballot.

### Alt solvency:

#### Pragmatic steps are necessary to solve—intermediate reforms demonstrate the viability of a fuller transformation. Justifies the aff ballot or perm

Wright 7 (Erik Olin Wright, Professor, Sociology, University of Wisconsin, “Guidelines for Envisioning Real Utopias,” SOUNDSINGS, 4—07, www.ssc.wisc.edu/~wright/Published%20writing/Guidelines-soundings.pdf)

5. Waystations The final guideline for discussions of envisioning real utopias concerns the importance of waystations. The central problem of envisioning real utopias concerns the viability of institutional alternatives that embody emancipatory values, but the practical achievability of such institutional designs often depends upon the existence of smaller steps, intermediate institutional innovations that move us in the right direction but only partially embody these values. Institutional proposals which have an all-or-nothing quality to them are both less likely to be adopted in the first place, and may pose more difficult transition-cost problems if implemented. The catastrophic experience of Russia in the “shock therapy” approach to market reform is historical testimony to this problem. Waystations are a difficult theoretical and practical problem because there are many instances in which partial reforms may have very different consequences than full- bodied changes. Consider the example of unconditional basic income. Suppose that a very limited, below-subsistence basic income was instituted: not enough to survive on, but a grant of income unconditionally given to everyone. One possibility is that this kind of basic income would act mainly as a subsidy to employers who pay very low wages, since now they could attract more workers even if they offered below poverty level earnings. There may be good reasons to institute such wage subsidies, but they would not generate the positive effects of a UBI, and therefore might not function as a stepping stone. What we ideally want, therefore, are intermediate reforms that have two main properties: first, they concretely demonstrate the virtues of the fuller program of transformation, so they contribute to the ideological battle of convincing people that the alternative is credible and desirable; and second, they enhance the capacity for action of people, increasing their ability to push further in the future. Waystations that increase popular participation and bring people together in problem-solving deliberations for collective purposes are particularly salient in this regard. This is what in the 1970s was called “nonreformist reforms”: reforms that are possible within existing institutions and that pragmatically solve real problems while at the same time empowering people in ways which enlarge their scope of action in the future.

#### 2) External critiques of the law fail – nihilistically ignore the need for pushing the law in different directions. Means the alt wont solve.

Litowitz 00 (Douglas, Visiting Assistant Professor, Florida Coastal School of Law, "Postmodernism without the 'Pomobabble'," 2 Fl. Coastal L.J. 41, lexis)

Postmodern theory offers an external critique of the legal system because it refuses to speak in the language games and terminology which are used (often unreflectively) by the officials inside the legal system. The external perspective differs greatly from the internal viewpoint adopted in mainstream Anglo-American jurisprudence, especially in the influential work of Ronald Dworkin, who has referred to the external perspective as 'perverse.' n132 Most legal scholars uncritically adopt the internal perspective and then set about solving problems from within a closed universe of positive law, thereby [\*75] narrowing the professor's vision within the limits of the existing system. Postmodernism eschews this in favor of an external perspective, which suffers from a different problem, namely that the external perspective is very far removed from the actual language games in which law is practiced. In other words, the practice of law is approached from such a critical distance that it is left unchanged. For example, a postmodern deconstruction of property law does little to help tenants who are abused by landlords, unless the deconstruction is wedded to a larger vision for reform of the law. Even if the postmodernists are capable of reducing the law to rhetoric or power relations, we still need to decide legal cases, to push the law in a particular direction. And here is where postmodernism comes up short, because its negative thrust renders it incapable of getting started on a program of reform, despite its power as a critical tool.¶ The failure of postmodernism to recommend a program for legal change is related to a second problem--the rejection of all foundations, both metaphysical and contingent. As we saw earlier, postmodern legal theory begins with a critique of Enlightenment concepts such as the autonomous legal subject, natural law, and God, but when the postmodern critique of these foundations turns into a full-blown rejection, postmodernism seems to nihilistically discount any basis on which to ground a vision of a just political order.

## A2 congress CP

#### Lets go back a month; trump is our president. The only thing Fuhrer Trump likes more than his daughter is our brave and true American troops. It’s empirically proven that a red executive and congress won’t pass police reform.

Domanick 16 Cops, Trump and the Threat to Police Reform By Joe Domanick | November 21, 2016 <http://thecrimereport.org/2016/11/21/cops-trump-and-the-threat-to-police-reform/> Joe Domanick is West Coast bureau chief of The Crime Report, and Associate Director of the Center onMedia, Crime and Justice at John Jay College in NYC

In many ways, Donald Trump’s election is about turning back the clock, and it appears likely his administration might kill off many justice reform efforts nationwide. As a candidate, Trump promised to get “tough-on-crime” (a code word since the 1960s for releasing the cops to “do what they gotta do”). If he carries out his pledges, it’s hard to see how the approach backed by the Task Force can survive. For instance his vow to renew surveillance of mosques will undermine community policing in Muslim neighborhoods; and his support for stop-question-and-frisk, whereby huge numbers of mostly poor black and brown teenagers are shaken down by police as a routine way of doing business, could breathe new life into one of the strategies most antithetical to police reform. Of course the federal government can’t mandate the use of stop-and-frisk, but the Justice Department can choose not to slap a consent decree against police departments that are regularly using the tactic. (About which more shortly.) A further troubling signal about the direction of policing reform came with the announcement Friday that Alabama Sen. Jeff Sessions was Trump’s nominee for attorney general. One of the most reactionary members of the Senate, Sessions was denied a federal judgeship in 1986 because of his alleged racism. He supported Trump’s call for a ban on Muslim immigration; and as Alabama AG, he prosecuted civil rights workers trying to register African Americans to vote—alleging voter fraud. At the annual American Society of Criminology conference in New Orleans last week, [several former Justice Department officials raised doubts](http://thecrimereport.org/2016/11/19/jeff-sessions-at-justice-triumph-of-the-hardliner/) about whether Sessions would continue the DOJ’s support of community policing through its funding of the office of Community Oriented Policing Services (COPS). During the campaign, Trump said, “National attention [to police abuse] does not mean national involvement of the federal government,” and that “local issues should remain local.” That reflects the views of some of the law-and-order advocates who were among his close advisers, most notably former New York City Mayor Rudolph Giuliani, until recently mentioned as a prospective Attorney General. As mayor, one of Giuliani’s signature anti-crime strategies was “stop and frisk,” which he claimed was principally responsible for the city’s plummeting crime rates. Giuliani and his supporters were incensed by a subsequent ruling by a New York judge that parts of the strategy were unconstitutional—and Trump is clearly on their side. During the campaign, [Trump told the International Association of Chiefs of Police](http://www.santafenewmexican.com/news/after-promises-of-law-and-order-justice-department-s-priorities/article_ca046849-f1d0-50f4-91f3-63c3ce23bec6.html) that he believed America’s cops could reduce violence by being “very much tougher than they are right now.” That’s a serious statement. Like stop-and-frisk, being “tougher” is antithetical to police reform. The very reason cities like Los Angeles, Boston, Dallas and Philadelphia are pursuing pioneering, real, game-changing innovative policing reform is precisely because American policing has been undermined by such tough policing for the past three decades. Law enforcement has provided the shock troops for the country’s unprecedented, racialized wars on drugs, crime and the nation’s poor. Those wars have been characterized by a paramilitary mind-set and a mission deeply focused on rigid, massive over-policing and high arrest numbers on the front end; and harsh sentencing and equally massive incarceration by other branches of our criminal justice system on the back end.

#### Drop the debater on fiat abuse; just because congress can doesn’t mean they will and their huq card gives us no reason why they have that intention.

## A2 BLM/Movements

#### Nonunique- reform movements are high right now- BLM just released its advocacy platform.

Balko 15 Balko, Radley. "The Black Lives Matter Policy Agenda Is Practical, Thoughtful—And Urgent." Washington Post (2015). Radley Balko blogs about criminal justice, the drug war and civil liberties for The Washington Post. He is the author of the book "Rise of the Warrior Cop: The Militarization of America's Police Forces."

Last week, the leaders of Black Lives Matter\* released a series of policy solutions to address police killings, excessive force, profiling and racial discrimination, and other problems in law enforcement, called “Campaign Zero.” Critics and police organizations have portrayed Black Lives Matter as radical, anti-police, and anti-white. But the policies Campaign Zero is pushing are none of those things. Instead, they’re practical, well-thought out, and in most cases, achievable. Most will also directly benefit everyone — not just black people. In most cases, the policies Campaign Zero is suggesting are already in place in one or more police departments across the country, and Campaign Zero points this out. That’s smart, and I suspect that it will prove to be effective. It makes it more difficult for police groups to portray those proposals as “anti-cop.” But it also makes it easier to pitch those ideas to policymakers and the public. They’ve already been field-tested. As a set, these policies are more a list of “best practices” than revolutionary reform. A few of the proposals will be a tougher sell, but even those are far short of world-shaking. There are no calls to disarm the police. No calls to abolish law enforcement agencies. No demands that police unions be prohibited. This isn’t a fervid manifesto. It’s a serious effort to solve a problem. (Its practicality is undoubtedly born of urgency. There’s no time for wild-eyed ideology when people are dying.) This isn’t criticism, but praise. These are proposals that will almost certainly have an impact, even if only some of them are implemented. The ideas here are well-researched, supported with real-world evidence and ought to be seriously considered by policymakers at all levels of government. Here’s a quick rundown: End Broken-Windows Policing This is a call to retire the philosophy of policing that leads to mass arrests for low-level offenses such as loitering, drinking in public or transience. Broken Windows still has proponents, who credit it for reducing crime in places such as New York. But there’s also plenty of academic literature suggesting that it doesn’t work as well as its supporters claim. In the meantime, it leaves thousands of people with arrest records and can lead to unnecessary escalation. (See Eric Garner.) There’s certainly something to be said for making communities more livable. It’s far from clear that mass arrests are the only way to accomplish that. This section also addresses racial profiling and stop-and-frisk, calling for an end to stops for generalized suspicion and for stops based on descriptions of suspects that are too broad (such as “black male, 15-55″). The former will be more difficult to sell. The easiest sells in each section will probably be the transparency policies. Here, Campaign Zero is calling for police to “report every stop including location, race, gender, whether force was used and whether a firearm was found,” and for that data to be made available to the public. The final part of this section calls for better responses to mental health crises. It proposes mandatory crisis intervention training for police officers, plus adding crisis counselors and other mental health professionals to the response team that shows up when someone is having a mental health breakdown. Many cities already do this, but I suspect cost will be a factor in the places that don’t. Still, it’s an important section. It’s a shame that when someone calls a suicide line or calls about a relative or friend in crisis, the first people to show up are often members of the SWAT team. That’s pretty much the worst thing we can do. End Policing for Profit Given the response among conservatives and libertarians to the death of Eric Garner, the revelations about the predatory municipal courts in St. Louis County (but not only there) and both groups’ opposition to civil asset forfeiture, this section probably has the best chance at winning a broad political consensus. It calls for banning quotas for tickets and citations, limits on the amount of revenue cities can get from municipal courts, and giving judges the discretion to waive fines imposed on low-income people. It also calls for a ban on the forfeiture of property without a criminal conviction and a ban on police agencies keeping the proceeds of such forfeitures. New Mexico was the first state to pass a law requiring a conviction. I suspect it will be tougher to get the ban on proceeds going back to police agencies, but requiring a conviction would eliminate most of the more outrageous and unjust aspects of this practice. Limit Use of Force The basic philosophy of this section is that police officers should use the minimum amount of force necessary to resolve a situation. That means lethal force should be used only when a life is in imminent danger, a policy consistent with international law enforcement standards. This section promotes bans on practices such as chokeholds and hogties and emphasizes deescalation. It calls for prohibitions on firing at moving vehicles and engaging in high-speed chases for low-level crimes. Again, these policies are already in place at some police departments, though not nearly enough of them. This section also recommends much more transparency, including collecting data on all use-of-force incidents, keeping track of which officers use force more often and making all that information available to the public. It also recommends an intriguing “early intervention” system to find problem officers (discussed in more detail here). [There is also] Demilitarization Much of this section has been covered in depth here at The Watch. The suggestions including ending the Pentagon’s 1033 program (which gives surplus military gear to local police departments) and some general limits and restrictions on the use of SWAT teams and no-knock raids. This section could actually go quite a bit further. I’d like to see a policy that prohibits police from forcibly entering a private home unless they suspect someone’s life is in danger. At the very least, they should be required to first try alternate methods, such as apprehending a suspect as he leaves or surrounding a building and calling a suspect out. Body Cams/Film the Police This section calls for mandatory body cameras for police officers, a “missing video presumption” for video that should be available but for some reason isn’t, allows anyone to obtain footage of themselves or a relative, and calls for privacy restrictions to protect the identities of people in footage that isn’t of public relevance. It also prohibits police from seeing footage before they write up their report. This is important to preserve the integrity of the two (or more) narratives. It also reinforces the right to record the police and calls for an enforcement mechanism when that right is violated (the ability to sue). Training This section calls for a wide variety of new training for cops, including in subjects such as community policing, deescalation, engagement with minority and gender-nonconforming communities, bias and other areas. There’s a budding consensus now in the criminal justice community that there’s a huge discrepancy in the amount of training law enforcement officers get in using force vs. the amount of training they get in preventing it. But within that consensus there’s a lot of room for disagreement about what gets emphasized and how best to close the gap. So the debate here will be not with the general principle, but with the specifics and how to implement them. More controversial still is a policy recommending testing to determine implicit racial bias, and that the results be used in hiring, performance evaluations and assigning beats. Implicit bias is more about how your mind operates than about how you act. It’s true that implicit bias can affect how police officers perform on the street, but it’s also a tough sell to say that cops should be hired, evaluated and promoted based on their results in lab tests instead of (or more likely, in addition to) what they do in the world. That doesn’t mean this section is wrong. It just means it will be a tough sell. Community Oversight I suspect this section will generate the most opposition, particularly from law enforcement groups. For a long time, cops answered only to other cops. Even in cities that have had civilian review boards, those boards usually like subpoena power, and their recommendations are just that — they can be ignored or overruled by an arbitrator. Here, Campaign Zero is calling for citizen police commissions to set policies for police agencies. Campaign Zero wants any current or former cops and their relatives to be barred from serving on these commissions, and for the commissions to have the power to discipline and fire cops (including police chiefs) and to have a say in the hiring of police chiefs. In addition, BLM is calling for separate civilian review boards to not only review complaints, but also to issue broader, data-driven reports on police stops, arrests, use of force and so on. This is probably the most radical part of the Campaign Zero plan, but only because it’s so foreign to what happens today. In theory, the idea that in a democracy the police should be accountable and answerable to the people they serve doesn’t seem all that radical at all. But in the past, this has mostly happened by way of the political process. That is, the people elect the politicians who are supposed to hold the police leadership accountable, and the leadership is then entrusted to hold individual officers accountable. This hasn’t worked out so well, mostly because there’s very little incentive for politicians to remain a check on cops. A politician needs only a majority of votes to stay in office. The number of people abused by police is naturally going to be pretty small when compared with the number of people who vote to elect someone to office. And the communities disproportionately affected by police misconduct will be a small percentage of the overall population. Most people want to feel safe and believe that empowering the police is the way to do that. There’s very little electoral incentive, then, for politicians to demand more accountability from law enforcement. In practice, this section of the Campaign Zero agenda would take police agencies from being answerable to no one but themselves to making them answerable to everyone but themselves. That’s a huge and substantial change. No profession will give up that kind of arrangement easily. But we’re talking about law enforcement here, a profession that can be politically powerful, is great at winning public sympathy and has a long tradition of looking out for itself. Given all that, the fact that these proposals are inherently more democratic — and just make a hell of a lot of sense — may end up being beside the point. Community Representation This short section proposes that police agencies put forth a plan and timeline to make minority representation within the department reflect representation in the larger community. My guess is that this will be derided as “quotas” or “affirmative action.” But it’s important that communities see themselves reflected in the police and vice versa. When cops do then need to use force, the community is more likely to see it as one of their own using force to protect them than as an outside entity inflicting force on one of their own. Likewise, pulling cops from the community itself fosters empathy. That’s important not just in reducing the use of force, but in encouraging cooperation and trust during investigations, which makes it less difficult to solve crimes. Fair Police Contracts This section takes aim at union-negotiated contracts that inhibit, limit or impede investigations of police misconduct. It also recommends policies to make those investigations more transparent and calls for an end to paying police officers while they’re being investigated for possible felonies. It will be interesting to see the political reaction to this section, given that these are some of the same critiques made by critics of other public service unions. But again, none of these proposals are particularly radical. You can make a good argument that police officers should be held to a higher standard than everyone else. You can also make a good argument that they should be held to the same standard. The least convincing argument is that they should be held to a lower standard. But in most jurisdictions today, cops accused of actual crimes get protections that regular people aren’t afforded. In theory, those protections only apply to internal, administrative investigations, not to criminal investigations. But in practice, they end up making it much more difficult to prosecute police officers when they’re accused of the same crimes as non-police officers. Independent Investigations and Prosecutions This section is similar to the proposals on police commissions and civilian review boards in that it emphasizes the need for police to be held accountable by entities outside the local, immediate law enforcement community. In particular, Campaign Zero is worried about local prosecutors who work closely with police handling investigations of police shootings, brutality and other misconduct. You needn’t be an ardent critic of either police or prosecutors to understand how this could be a problem. As a whole, these proposals are well-argued, practical and smart. For the most part, they’re supported by empirical data and real-world experience. The Campaign Zero leadership has clearly given these proposals a lot of thought. That said, I wouldn’t be at all surprised if they’re portrayed as radical and reactionary, especially by police organizations. This discussion has been so lopsided over the years that any reform, no matter how sensible, is bound to be met with intense opposition and demagoguery. Police leaders and organizations have been pretty shameless about generating disproportionate outrage at politicians for even tepid criticism, or about scaring the public, then invoking that fear to essentially present the debate as either the status quo or lawless criminals ruling the streets. They’ve been incredibly effective. There is at least some reason to be more optimistic this time around. The main reason is that the problems in policing are starting to affect people who have the status and power to do something about them. One reason we’re starting to see conservative opposition to police militarization, for example, is that police militarization is starting to affect conservatives. We’re seeing regulatory agencies with armed police forces, some even with tactical teams. We’re seeing SWAT-like tactics used to enforce zoning laws and low-level crimes. We’re seeing heavy-handed force used to collect cigarette taxes or to enforce regulatory law. Similarly, while how and when police use lethal force has a disproportionate effect on communities of color, there has been no shortage of stories about unarmed white people killed by police. There are problems in policing that are directly related to race, such as profiling, bias and an irrational fear of black criminality. But there are also problems in policing that affect people of all races, such as the use of lethal force, unnecessary escalation and the prioritizing of officer safety over all else. (Even these problems disproportionately affect black and brown people.) These Campaign Zero proposals address both sets of problems. If the more important policies get adopted on a large scale, it will undoubtedly save lives — black lives, brown lives, white lives and the lives of police officers.

### A2: Kant NC

#### Debate should deal with questions of real-world consequences—ideal theories ignore the concrete nature of the world and legitimize oppression

Curry 14 [Tommy J. Curry, Professor of Philosophy @ Texas AandM, “The Cost of a Thing: A Kingian Reformulation of a Living Wage Argument in the 21st Century,” 2014]

**Despite the pronouncement of debate as an** activity and **intellectual exercise pointing to the real world consequences of dialogue, thinking, and** (personal) **politics when addressing** issues of **racism, sexism**, economic disparity, global **conflicts, and death**, **many of the discussions** concerning these ongoing challenges to humanity **are fixed to a paradigm which sees the adjudication of material disparities and sociological realities as the conquest of one ideal theory over the other**. In “Ideal Theory as Ideology,” Charles **Mills outlines the problem** contemporary theoretical-performance styles in policy debate and **value-weighing in Lincoln-Douglass are confronted with in their attempts to get at the** concrete **problems in** our **societie**s. At the outset, Mills concedes that “ideal theory applies to moral theory as a whole (at least to normative ethics as against metaethics); **[s]ince ethics deals** by definition **with normative**/prescriptive/evaluative **issues, [it is set] against factual**/descriptive **issues**.” At the most general level, **the** conceptual **chasm between** what emerges as ***actual* problems** in the world (**e.g.: racism, sexism**, poverty, disease, **etc.) and how we frame such problems *theoretically***—**the assumptions and shared ideologies we depend upon for our problems to be heard** and accepted **as a** worthy “**problem” by an audience—[this] is the most obvious call for an anti-ethical paradigm**, **since such** a paradigm **insists on the actual as the basis of what can be considered normatively**. Mills, however, describes this chasm as a problem of an ideal-as-descriptive model which argues that for any actual-empirical-observable social phenomenon (P), an ideal of (P) is necessarily a representation of that phenomenon. In the idealization of a social phenomenon (P), one “necessarily has to abstract away from certain features” of (P) that is observed before abstraction occurs. **This gap between what is *actual* (in the world), and what is represented by theories and politics of debaters proposed in rounds threatens any real discussions about the concrete nature of oppression and** the **racist** economic **structures which necessitate** **tangible policies** and reorienting changes in our value orientations.

1. Proving that a principle of non-beneficence is impermissible is not sufficient to show that beneficence is obligatory because such logic commits the fallacy of denying the antecedent. The NC proves without beneficence there can be no morality, but not that with beneficence there can be morality, meaning the NC is logically fallacious and doesn’t generate an obligation to affirm.

2. The NC can never prove that they don’t violate some sort of Kantian side constraint because denying the violation of said side constraint would form the basis of a negative existential claim, the veracity of which is impossible to prove.

3. There is no reason why the negative must advocate the converse of beneficence, i.e. not helping anybody. Rather, I defend beneficence as supererogatory, meaning it could still happen in the negative world, it just wouldn’t be called obligatory.

4. The negative can’t violate a side constraint because negating is an omission. A. The negative is denying the truth of the affirmative, so it can’t take an action due to the nature of what it means to negate. B. The negative is saying that we should not help people in need, since help is an action, not helping is by definition an omission.

### A2: Judicial Review DA

No link

1. This tag is over powered; no threshold for what destroys judicial review. The aff is a limit on qualified immunity not elimination.
2. The aff is a reform on something that the supreme court ruled legal, we are not overruling their decision

On Somin

1. The court isn’t always good. Let’s not forget Plessy V. Ferguson that the Supreme Court ruled segregation is legal.
2. Also the neg misunderstands how checks and balances works. Even if this did overrule judicial review in this instance, which is doesn’t, that doesn’t take away the supreme courts power of Judicial Review. They will still always have it which means they can check back against oppressive laws.

### A2: Reformism DA

1. The aff isn’t a belief that Civil rights reform is the savior of the universe but rather one of the avenues we can take towards social change. I.e we hold cops accountable for killing black youth. Sure its not perfect but atleast we aren’t complacent when cops are literally murdering hundreds a year.
2. Legal reforms are good, this is empirically verified. Black people aren’t getting lynched every day, segregation is gone. Our argument isn’t that Legal Reforms are the best thing ever but rather steps we can take to alleviate material conditions
3. \*insert your solvency card here\*

### A2: Indeminification

Aff solves despite indemnification

**Schwartz**, Joanna C., Police Indemnification (June 2014). 89 N.Y.U. L. Rev. 885 (2014). Available at SSRN: https://ssrn.com/abstract=2297534 or <http://dx.doi.org/10.2139/ssrn.2297534> JN

Others will argue that, **despite indemnification, police officers are still** in danger of being over **deterred by the threat of liability**. An officer who has never been sued may overestimate the likelihood that the will be held financially responsible for a settlement or judgment.271He may overestimate the likelihood that he will have to pay an attorney to defend him in a civil suit.272 He may fear that being sued will make it more difficult to get a loan or sell his home.273 He may fear negative employment ramifications associated with being named a defendant.274 And he may fear the harassment and distraction associated with document requests, depositions, and court appearances.275 An officer who has previously been sued is extremely unlikely to have borne the costs of an attorney or contributed to a settlement or judgment, but may still fear future financial liability—especially if he is employed by a city that waits until the end of litigation to decide whether to indemnify or withholds indemnification decisions for some tactical advantage.276 **Even if an officer believes he will be indemnified**, he may not want his conduct to impose costs on taxpayers or hisemployer.277 **He may fear that he will be disciplined or denied promotion if he is named in multiple suits. He may fear having to participate in future depositions or trials**. And each of these concerns may “erode[officers’] necessary confidence and willingness to act.”278